



**NY Power
Authority**

**Canal
Corporation**

**MINUTES OF THE JOINT REGULAR MEETING
OF THE
POWER AUTHORITY OF THE STATE OF NEW YORK AND
NEW YORK STATE CANAL CORPORATION**

May 19, 2020

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Minutes of the Regular Joint Meeting of the Power Authority of the State of New York and Canal Corporation held via video conference at approximately 9:00 a.m.

Members of the Board present were:

John R. Koelmel, Chairman
Eugene L. Nicandri, Vice Chairman
Michael A.L. Balboni
Dennis T. Trainor

Anthony J. Picente, Jr. – Excused
Tracy McKibben – Excused

| | |
|----------------------|---|
| Gil Quiniones | President and Chief Executive Officer |
| Justin Driscoll | Executive Vice President and General Counsel |
| Adam Barsky | Executive Vice President and Chief Financial Officer |
| Joseph Kessler | Executive Vice President and Chief Operating Officer |
| Sarah Salati | Executive Vice President and Chief Commercial Officer |
| Lee Garza | Senior Vice President – Financial Operations |
| Soubhagya Parija | Senior Vice President & Chief Risk Officer |
| Robert Piascik | Senior Vice President & Chief Information Officer |
| Angela Gonzalez | Senior Vice President – Internal Audit |
| Keith Hayes | Senior Vice President – Clean Energy Solutions |
| Yves Noel | Senior Vice President – Strategy & Corporate Development |
| Kristine Pizzo | Senior Vice President – Human Resources |
| Scott Tetenman | Senior Vice President – Finance |
| Philip Toia | Senior Vice President – Power Supply |
| Karen Delince | Vice President and Corporate Secretary |
| John Canale | Vice President – Strategic Supply Management |
| Ruth Colón | Vice President – Enterprise Shared Services |
| Ricardo DaSilva | Vice President – Strategic Operations |
| Joseph Leary | Vice President – Community & Government Relations |
| Patricia Lombardi | Vice President – Project Management |
| Doug McMahon | Vice President – Head of e-Mobility & Grid Flexibility |
| Daniella Piper | Vice President – Digital Transformation Office and Chief of Staff |
| Anne Reasoner | Vice President – Budgets and Business Controls |
| Ethan Riegelhaupt | Vice President – Corporate Communications |
| Evan Yager | Vice President – Enterprise Portfolio Management Office |
| Thakur Sundeep | Controller |
| Christina Reynolds | Treasurer |
| Susan Craig | Director – Media Relations |
| Maribel Cruz | Director – Projects |
| John Markowitz | Director – eMobility Technology & Engineering |
| Munawar Ali Mohammed | Director – Digital Transformation Office |
| Melinda Li | Principal Attorney 1 – Finance & Bonds |
| Tim Zandes | Regional Manager – Site Administration – SENY |
| Mary Cahill | Manager – Executive Office |
| Paul DeMichele | Media Relations Project Manager |
| Lorna Johnson | Senior Associate Corporate Secretary |
| Christopher Vitale | Senior Finance Project Manager |
| Sheila Quatrocci | Associate Corporate Secretary |
| Michele Stockwell | Project Coordinator – Executive Office |

Chairman Koelmel presided over the meeting. Corporate Secretary Delince kept the Minutes.

Introduction

Chairman Koelmel welcomed the Trustees/Directors and NYPA and Canal staff members who were present at 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 Authority's Bylaws, Article III, Section 3.

1. **Adoption of the May 19, 2020 Proposed Meeting Agenda**

On motion made by member Michael Balboni and seconded by Vice Chair Nicandri, the members adopted the meeting Agenda.

Conflicts of Interest

Chairman Koelmel and members Nicandri, Balboni and Trainor declared no conflicts of interest based on the list of entities previously provided for their review.

Vice Chair Nicandri said that, in the interest of transparency, he wanted the records to show that a member of the Law firm Barclay Damon LLP (#4a iv 1) did some estate planning work for his family three years ago. He does not have any ongoing matters with the firm.

2. **Motion to Conduct an Executive Session**

“Mr. Chairman, I move that the NYPA and Canal Boards conduct an Executive Session to discuss the financial and credit history of a particular corporation and matters regarding public safety and security.” On motion made by member Dennis Trainor and seconded by member Michael Balboni, the members held an executive session.

3. **Motion to Resume Meeting in Open Session**

“Mr. Chairman, I move to resume the meeting in Open Session.” On motion made by member Dennis Trainor and seconded by member Michael Balboni, the meeting resumed in Open Session.

Chairman Koelmel said that no votes were taken during the Executive Session.

4. DISCUSSION AGENDA:

a. Strategic Initiatives

i. President and Chief Executive Officer's Report

Covid-19 Preparation and Response

President Quiniones provided a report on the Covid-19 Preparation and Response (Exhibit 4a i-A).

President Quiniones said that the state has begun the process of reopening. He reported that:

"From the onset of the pandemic, NYPA have successfully protected the health and safety of its employees, partners, contractors, vendors, and the communities where it operates across the state.

In January 2020, NYPA established a Covid-19 Task Force. As mentioned previously, NYPA's employees in Asia and Europe who perform quality control and factor acceptance testing of large equipment that NYPA purchases, reported on Covid-19 in those regions.

In February 2020, NYPA refreshed its pandemic and business continuity plans; and on March 2, formally set up its Emergency Operations Center using the Incident Command System process. NYPA also successfully instituted "Work-from-Home" across the organization and Canals. Within 5 days, NYPA was able to convert from its normal way of working to "work-from-home" status and credit the IT group this success.

Despite the crisis, NYPA was able to sustain the operation of its generation & transmission system, statewide. NYPA produces up to 25% of electricity in the state and owns one-third of the transmission system. NYPA is a critical lifeline infrastructure of the state's power system and was able to fulfill that role during this crisis.

Since March, NYPA sequestered approximately 83-85 of its Control Room and Control Center operators for four-week intervals. These operators are critical to NYPA's operations, and NYPA ensured that they were protected or isolated from any potential infection.

NYPA also convened and coordinated the response of all power plant owners in the state. NYPA executed a Mutual Assistance Agreement with these generation and utility companies, including Canada's Ontario Power Generation and Hydro Quebec to ensure power plants in New York can share resources, including key personnel, if needed.

NYPA have also been conducting, weekly, and now, biweekly, calls with all the investor-owned utilities and the Long Island Power Authority in New York to make sure that it is also coordinating the responses of its transmission and distribution utilities.

To stabilize the flexibility and liquidity of NYPA, the company paused all capital and operations & maintenance work while, at the same time, ensuring the safety of its employees. In fact, because of it being a very strong and stable utility with good credit, in April, NYPA successfully issued \$1.2 billion in long-term bonds, \$800 million of which have been classified as Green Bonds, which will be used in green infrastructure and to meet the climate goals of the state. NYPA is flexible and has enough liquidity to be able to deal with the effects of a second wave of the pandemic, while being able to continue its operations and critical capital program, going forward.

President Quiniones said that, overall, he is pleased to report that, for the first "battle," NYPA and Canals have performed extremely well. The Authority have learned a lot, for example that it can stay productive with staff working from home; there are processes that are working now that the Authority can carry forward into the new normal; and, going forward, its workplace and work processes will be different than it was on February 1st. The Authority will also need to look at its existing organizational structure and processes, because the Authority wants to make sure that when it goes to a "Work-From-Home" mode that its employees can all be as productive as possible in advancing the Authority's strategic initiatives.

In summary, the game plan that the Authority put forth, embodied in its pandemic and business continuity plans, worked extremely well. The Authority's IT system also worked well, and the employees over-performed, making sure that the Authority was fulfilling its mission for the State of New York.

President Quiniones ended by saying that the Authority is now shifting to prepare for those flare-ups and following waves of this pandemic, especially in the fall and winter, which will be coincident with the flu season. The Authority is taking all the lessons learned and doing all the preparations it can to be even better prepared to withstand those flare-ups and second waves."

President Quiniones said that Ricardo DaSilva, Vice President of Strategic Operations, will report on NYPA's responsible return-to-work program; Evan Yager, Vice President of Enterprise Portfolio Management, the un-pausing of the Authority's major capital and O&M work that was paused at the beginning of this pandemic; and David Mellen, Deputy Director of the Canal Corporation, will discuss the plans to regionally open the Canals.

COVID-19 Regional Reopening Plans

1. Return to the Workplace Plan

Mr. Ricardo DaSilva, Vice President, Strategic Operations, and a member of the Incident Command System in the Planning & Implementation area supporting NYPA's COVID-19 response, provided the following report on NYPA's responsible return-to-work program (Exhibit 4a i-1-A).

"Key Principles

- First and foremost, the health and safety of the Authority's employees and those it serves is number one. Every action and task planned is with that in mind.
- The approach mapped out is aligned with Governor Cuomo's guidance and NY Forward with a regional un-pause. Once those metrics have been met, essential work will drive the pace of re-entry for NYPA's employees.
- Based on the work, site-specific re-entry plans have been developed to ensure that essential employees return to work in a measured approach. By doing so, NYPA is actively managing density and promoting social distancing across its operating facilities and administrative locations.
- Based on the five (5) eligible regions that un-paused according to Governor Cuomo's guidance, NYPA's first phase of returning to the workplace commenced on May 18. In addition, over the weekend, NYPA ended sequestration of personnel at the upstate operating facilities.
- To prepare the workforce, communications and resources have been developed internally and made available to employees to provide consistent and transparent information about what to expect as they return to work.

Approach

- NYPA is working to re-open the workplace to achieve the business needs of the organization while ensuring the safety and well-being of the workforce.
- NYPA's actions have been deliberate across four (4) categories:
 - Re-Entry Considerations
 - Employees will be brought back in stages.
 - Employees that can continue to be productive working remotely are being urged to continue to do so.
 - An assessment indicates that approximately 45% of the workforce is able to remain productive while working remotely on a full-time basis.
 - Preparing the Workforce
 - NYPA will continue to support those employees who can continue to work remotely.
 - For those employees that are returning to the workplace, NYPA have established new and updated policies as well as drafted a set of guidelines for employees to follow. These guidelines have been issued to communicate best practices as well as information to aid employees during their transition to the workplace.
 - Like any typical safety practice, NYPA is looking to institute a culture of shared social responsibility.

- Preparing the Workplace
 - A series of actions to ready the workplace are being carried out. These include providing PPEs for performing more frequent cleaning, posting of informational signs, and analyzing areas of potential density.
- Implementation and Monitoring
 - Taking a project management style, NYPA is implementing and monitoring each of these actions.
 - NYPA continues to be vigilant towards any additional or updated New York State and/or CDC guidance to ensure compliance with health & safety guidelines and requirements.
 - NYPA, furthermore, is leveraging new tools and data analysis to monitor the metrics across New York State and its employees through daily health screenings.

Prioritizing Which/When Employees Return

- A thorough assessment was performed by the Executive Leadership to understand and prioritize the functional roles that would return to the workplace in the short-term.
- It was determined that, of the combined NYPA and NY State Canal Corporation, approximately 28% are required to return to the workplace on a full-time basis to support the work. Another 28% may require some level of return to the workplace, but on a part-time basis.
- The remaining employee base (44%) will continue working remotely.

Return Pace for NYPA Operating Sites

- Site-specific plans have been developed for each of NYPA's operating facilities. (e.g. week 0 coincides with the moment a regional un-pause occurs). From there, employees will begin returning to the workplace – initially, to address any preparations. Once that is done, the numbers will continue to increase in a phased approach according to work priorities and schedules.
- NYPA is looking to maximize social distancing by segmenting work across locations and schedules.

Return Pace for Canals Operating Sites

- NYPA also ran scenarios at the NYS Canal Corporation under different assumptions of remaining closed or re-opening. Doing so provides additional insights into planning for how employees will return to support essential functions as well as regional re-opening.

Return Pace for NYPA / Canals Administration Sites

- For administrative offices, many of the employees represented in the graphs (Exhibit 4ai-1-A) are support functions, such as Engineering and Project Management resources. Primarily, these roles will have more flexible work schedules and only require being in the office on a part-time basis.
- The percentages of individuals returning to the workplace are low. An evaluation of the floor plans to understand density has been performed.
- NYPA is also developing software applications to facilitate scheduling and monitoring floor occupancy."

2. Unpausing of Capital and Operations & Maintenance Work

Mr. Evan Yager, Vice President of Enterprise Portfolio Management Office, and a member of NYPA's Incident Command response team, specifically representing the Finance section, provided the following report on NYPA's un-pausing of its major Capital and Operations & Maintenance ("O&M") work that was paused at the beginning of the pandemic (Exhibit 4a i-2-A).

"Similar to the company's plans to bring staff back to the workplace, efforts are underway to restart NYPA's Capital and O&M portfolios.

First, below is a summary of the work that was halted at the onset of COVID-19:

- a review was immediately conducted and most of the organization's 1,200 capital and O&M projects across all business units was paused.
- The work was bucketed into one of three categories that ensured the safety of NYPA's internal workforce and all engaged contractors by focusing on critical work, but also helping to preserve NYPA's liquidity as this was prior to any completed bond offerings.
 - Work categorized as "Continue" meant that while construction was still halted, external engagements, either through major procurements, external design efforts, etc., were still allowed to continue. This helped to keep some level of momentum on the major efforts underway.
 - Work was also categorized as "Q4 Restart" as this aligned well with the expected 3-6 month "Pause." This work was expected to resume using internal resources but limit any external spending. This was an opportunity to maintain a reasonable level of productivity across the workforce, given that many employees were now working remotely.
 - Lastly, some work was ultimately deferred as it was recognized that, with so many unknowns with the upcoming pause-period, the organization would need to focus on more priority efforts.
- As this work categorization was done, a handful of absolutely critical projects that needed to be continued with live construction was identified; for example, work in mid-outage and resulting in reduced system redundancy. Staff worked with the Legal Department to interpret Executive Order 202, essential vs. non-essential determinations; ensured alignment with other agencies; and continued minimal construction efforts with many employee safeguards in place.
- All of this resulted in a significantly reduced "revised portfolio budget" through the end of the year that dramatically cut back on the amount of cash being spent.
- The focus, now, is to restart NYPA's work portfolios in a methodical process that balances those business-critical efforts with strategic initiatives, so as not lose sight of either along the way.
- NYPA is also measuring each project against a basic set of prioritization criteria in order to understand what work should be brought back first.
 - priority projects are always those focused on the safety and security of NYPA's facilities and employees.
 - Also critical are those projects regulated either internally or through an external agency, but, mandated in one form or another.

- NYPA's customers' perspective is also a priority as much of that work is ongoing at critical facilities.
- "Covid-adaptability" is a strong consideration for all work; meaning that projects allow for workers to function in a safe manner – spread out from one another, working split shifts, etc.
- And, lastly, NYPA has many major in-flight contracts in place. Staff is working to get those projects up and running; this not only helps NYPA but also many other contractors that are hoping to get their employees back to work.
- The resulting plan is "Batches" of projects to be restarted that are prioritized, but also in alignment with New York State's Un-pause plan.
- - To date, 7 of the 10 regions have hit the 7/7 criteria necessary to initiate their phase 1 restart plans (CNY, Finger Lakes, Mohawk Valley, North Country, Southern Tier, WNY)
 - As such, NYPA's Batches of recommended restart projects match accordingly – the first from CEC, St. Lawrence and Blenheim-Gilboa and, the most recent set from Niagara. In addition, both Commercial Operations and Canals projects within these regions are also being identified and are following similar restart schedules.
 - NYPA's first area of focus is on those projects originally categorized as "Continue," but have already started to assess the Q4 Restart projects to understand where the restart of that work makes sense.
- Even beyond the prioritization effort that identifies which work should move forward first, project teams are also utilizing a formalized Return-to-Work checklist to ensure that all areas of the company are ready to restart.
- Three separate checklist processes have been established to facilitate this restart process – All are electronic, auditable and capture input from various perspectives within NYPA – the goal being that the restart decisions being made are company-wide and cover all associated facets of project work.
 - The first is designed for Contractor Projects – this is the majority of work done at NYPA, but specifically for projects that include work conducted by external contractors.
 - The second is focused on internal projects – those efforts utilizing only NYPA's own internal workforce.
 - And the last designed for third-party permitted work – this is work occurring on NYPA/Canals-owned property but not utilizing NYPA's workforce.
- Each checklist routes around the business to capture specifically:
 - Financial Confirmation – ensuring the work is included in any revised forecasts.
 - Legal confirmation – ensuring that work can move ahead and not in conflict with any NYS directives.
 - Public or Government relations and Corporate communications – to ensure that all stakeholders, internally and externally, are engaged and are ready for this work to start.
 - Environmental, Health & Safety ("EH&S") – review of the project to make sure that the revised Health and Safety Plans that are specific to operating in a COVID-environment have been received and agreed upon.
 - Strategic Supply Management ("SSM") or procurement concurrence/support in re-engaging contractors to minimize any contractual issues.
 - And lastly, NYPA's own leadership, to ensure all are in alignment.

- With the state continuing to open in various aspects, and employees returning to the field it is expected that additional project-work will restart accordingly. The goal is to control this restart, keep everyone safe and continue working to meet the company's objectives."

3. Regional Reopening of The New York State Canals

Mr. David Mellen, Deputy Director of the Canal Corporation, provided a report on the plans to regionally open the New York State Canals (Exhibit 4a i-3-A).

"In mid-March, due to Covid-19, work across the canal system was suspended. A number of significant projects across the state that needs to be restarted including 8 lock rehabilitation projects being performed by Canal maintenance crews and more than 15 construction projects by contractors, were active at that time. Canals have more than 50 locks across the system, many of which are in varied states of disrepair; work vessels are also in a state of disrepair and that repair work was also stopped in mid-March. This repair work needs to be restarted and accomplished before the system can be opened. The system is usually scheduled to open in mid-May.

Over the past few weeks, Canals developed a reopening plan. The framework concepts associated with the reopening plan include:

"NY Forward Reopening" Plan

The Canals reopening is in full alignment with the Governor's "New York Forward Reopening" Plan. Therefore, as the various regions open, the Canals maintenance crews and contractors in those economic regions will go back to work.

Last Friday, the "Notice to Mariners" was issued with the 2020 Canal Season Opening Schedule. At that time, three of the five economic regions that comprise the canal system were opened: Finger Lakes, Central New York, and Mohawk Valley. The Western New York region is now opened, and the Capital District will follow. Later, all the affected regions that cover the canal system will be opened.

Employee Safety

The second, and the most important part of the plan, and Canals' number one priority, is related to employee safety. All relevant safe COVID protocols will be followed.

It is anticipated that there will be a 5 - 10 percent productivity loss due to the need to follow COVID-19 safety protocols, particularly at the Locks, e.g. workers having to wear goggles, masks, and gloves. In general, Canals is proceeding cautiously with employee safety. Adjustments will be made as the work gets underway.

Workers

To get the canal season open requires all the employees to return to work. Canals is planning to start that process next week. Additionally, the Canal Corporation will need to hire 50 to 60 seasonal workers to assist in completing the work, and another 120 seasonal workers to operate the system once its ready for operation. Canals currently has 375 maintenance employees, and, with the addition of the seasonal workers, additional risks relative to safety will need to be managed.

Staggered Opening

Another concept associated with the reopening plan is staggered opening. The canals is a vast system that spans across the state. The Canal Corporation will be working diligently and responsibly to get the system open. This will be done on a regional basis. As soon as parts of the system are available, it will be communicated to the public.

Much of the system will be available to the public by July 4th. Some parts will not be available because there are several critical projects that will result in some parts of the system not being opened by July 4th.

Commitment to Communication with Stakeholders

Canals is committed to communicating with its stakeholders. There are a lot of regional assets in the canal system now available and have been available throughout the non-navigation sections, e.g. the trail system which is up and running and plenty of recreational activity for paddlers and smaller vessels.

As the system opens, Canals' intent is to be fully transparent with communication with stakeholders. The projects (approximately 15) that are now being worked on are already listed on the website and Canals plan to update the website as work proceeds.

Reopening Schedule

Below is an outline of Canals' opening plan through the five regions:

Western Region – spans from Tonawanda to Lockport -- Opening today. This region will be fully opened by July 4th. All the projects are completed.

Finger Lakes region - spans from Lockport to the Montezuma Wildlife Refuge. From Lock 34 and 35 in Lockport to Lock E-25 at Mays Point - A vast majority of that region will also be opened by July 4th.

Locks CS-2 and CS-3 – these locks will prohibit the connection of Seneca Lake to the Erie Canal until the first week of August. A rehabilitation project, which includes electrical and some mechanical work is currently underway.

Central New York Region – spans from Montezuma Wildlife Refuge to the east of Oneida Lake. It encompasses Oneida Lake and the Oswego Canal – The entire Central Region is anticipated to be opened by July 4th, except Lock O-7 in Oswego, which will not be ready until August 10th. The \$25 million Lock O-7 rehabilitation project was originally anticipated to be completed by June; however, with the pause in mid-March, this will not meet that completion date.

Mohawk Valley Region – spans from Sylvan Beach, the east end of Oneida Lake, to Lock E-10 at Cranesville. This is the most challenging region in terms of being able to open. There are three significant projects in that region with various completion dates. Of the three critical projects, the one with the earliest completion date is an embankment repair project in the Utica area expected to be complete July 20th

The Mohawk Valley region, with all the movable dams, and multiple projects, will be opened between July 4th and August 10th.

Capital District Region – This region is slated to open soon. When opened, similar to Central New York and the Finger Lakes, the public will have access to the vast majority of the system.

There are two projects in that region, one on the northerly end of the Champlain Canal in Whitehall. That project has approximately ten weeks of work before it will be completed. Therefore, access to Lake Champlain will not be available until late July/early August.

Lastly, the Lock rehabilitation project in Vischer Ferry, west of Waterford, is anticipated to be completed mid-July.

Most of the system will be available by July 4th. The Mohawk Valley is challenging. Even in parts of the system that are open, there are off projects that pose a restriction, until some point later in the summer.

Looking at the summer as a whole, at some point, late July or early August, the concept of “through navigation” being totally 100 percent available from Lake Erie to the Hudson or from Lake Erie to Lake Ontario, will not be possible until late July, early August.

Safety is the Canal Corporation's number one priority. To that end, the Canal Corporation will keep its website updated so that the public can be aware of the progress."

President Quiniones added that NYPA plans to communicate with the communities and stakeholders regarding available amenities, services, and activities in each of the sections as they are opened. He said that there are a lot of activities, services and amenities that can be done now within the different sections of the canals, even while work is being done. He continued that NYPA believes that during this crisis, especially when the weather gets nicer, people will desire to go outside, while practicing social distancing. And the Canals and the Empire State Trail along the Canals are going to be valuable assets to accomplish that for the communities. NYPA will engage with several communication pieces to educate the communities and the users regarding what is available.

4. Chief Financial Officer's Report

President Quiniones said Mr. Adam Barsky, Executive Vice President and Chief Financial Officer, will be presenting the 3+9 financial report on the Authority's Income Statement (3 is the three actual months (January to March) and 9 is the forecast months, the nine remaining months of the year). He said that he wanted to communicate to the Board that this is an historical reference point because the COVID crisis has fundamentally changed all the assumptions and NYPA's operating environment.

President Quiniones said that the Net Income, used as an historical reference point, projection that Mr. Barsky will be presenting is mid of a range of potential outcomes. And, included in that range is another potential downside in the Authority's wholesale electric supply business -- prices and customer usage have been depressed as the Authority have been on a New York paused operating environment.

He continued that the potential impact from a regulatory ruling that NYPA received from the Federal Energy Regulatory Commission ("FERC") after the Board meeting on March 31st, is not included in the Net Income forecast. The Authority will be disputing this ruling with FERC. NYPA will be able to inform the Board of the actual potential impact at the end of this month. However, whatever those impacts are, they will be reflected in the financial statement that NYPA will provide by the end of this year. He then asked Mr. Barsky to present the 3+9 Financial Statement as a reference point.

Mr. Adam Barsky, provided highlights of the financial report to the Board (Exhibit 4a i-4-A).

3 + 9 Full-Year Forecast

Mr. Barsky said that NYPA will continue to evaluate the FERC ruling, the results of which will be reflected in future updates to the Board. He continued that, as President Quiniones mentioned, this report is a 3+9 Full-Year Forecast – 3 is the three actual months (January to March) and 9 is the forecast months, the nine remaining months of the year. The Finance Department is now in the process of updating the actual for April and the forecast going forward into the 4+8 Full-Year Forecast.

Net Income

Net Income forecast is negative \$48 million. This is the midpoint of a range, given the incremental expenses from activities that are going on in this unusual year. The major drivers for the Net Income going from \$40 million to negative \$48 million, is also the result of the very low energy prices compared to what was originally projected when the financial plan was completed.

Margins – Generation – (\$59 million) – this includes Merchant Gross Margin Variance of \$42 million. It reflects the shortfalls from what was originally anticipated in the budget, \$335 million; as of the time of this update, it was projected to be \$292 million. The remainder has to do with customer impacts based on the energy crisis, getting to the result of \$59 million.

Margins – Transmission – There is a loss of the transmission revenue than originally anticipated.

Margins – Non-Utility revenue relates to the customer energy efficiency program and assumes that the pause has delayed the completion and starting of work that was in the pipeline. This reflects a reduction from the revenues that were originally anticipated.

Operating Expenses – The \$5.5 million is for the cost of the COVID-19 expenses that is net of a potential FEMA reimbursement. That is what is currently estimated the Authority would not be able to recover from FEMA for that portion of the costs related to COVID.

The other major drivers on the expense side are the impacts of the pause on the Authority's Capital program with respect to projections made for labor to capital allocations.

Chairman Koelmel said that, as with all businesses, the impacts on the Authority are significant and substantial; however, the Authority is very well-positioned to withstand this crisis.

President Quiniones added that the Authority's medium to long-term prospects are sound because it has flexibility and liquidity. The Authority has a great set of assets and a number of projects, going forward. He reiterated that, despite the "bump" the Authority is facing this year, it is well-positioned to withstand it and will not only be able to bounce back, but to bounce forward.

b. Finance Committee Report

Chairman Koelmel reported that the Finance Committee met on May 14th. In the absence of the Chair of the Committee, Tracy McKibben, he provided a recap of the below items considered and asked for the Board's approval.

- i. Financial Operations
 - 1. Release of Funds for the New York State Canal Corporation
- ii. Utility Operations
 - 1. Small Clean Power Plants – LM6000 Master Service and Parts Agreement – Contract Award
- iii. Commercial Operations
 - 1. e-Mobility Program: Authorization to Expand Vendor Pool and Contract Capacity for Electric Vehicle Charging Station Projects
- iv. Legal Operations
 - 1. Procurement (Services) Contracts – Legal Services Contract Awards
- v. Information Technology
 - 1. Information Technology Contingent Staffing – Multiple Contract Awards

i. **Financial Operations**

1. **Release of Funds for the New York State Canal Corporation**

The President and Chief Executive Officer submitted the following report:

"SUMMARY"

The Trustees are requested to authorize the release of an additional up to \$22.8 million in funding to the New York State Canal Corporation ('Canal Corporation') to support the operations of the Canal Corporation in calendar year 2020. The amount requested is 25% of the Canal Corporation's 2020 O&M Budget. The Trustees have previously authorized the release of \$45.6 million to support the operations of the Canal Corporation for calendar year 2020.

The Finance Committee, at its May 14, 2020 meeting, recommended that the Trustees authorize the release of this additional funding.

BACKGROUND

The Authority has been authorized to provide financial support for the Canal Corporation. See, e.g., Public Authorities Law § 1005-b(2). However, certain expenditures associated therewith do not constitute Capital Costs or Operating Expenses ('Operating Expenses') as defined in the Authority's General Resolution Authorizing Revenue Obligations dated February 24, 1998, as amended and supplemented ('Bond Resolution'). Expenditures for the Canal Corporation's operating purposes that do not constitute Capital Costs or Operating Expenses must satisfy the requirements of the Authority's Bond Resolution relating to the release of funds from the trust estate created by the Bond Resolution for lawful corporate purposes. In addition, as set forth in the Trustees' Policy Statement dated May 24, 2011, a debt service coverage ratio of 2.0 is to be used as a reference point in considering any such release of funds.

The Bond Resolution permits the Authority to withdraw monies 'free and clear of the lien and pledge created by the [Bond] Resolution' provided that (a) such withdrawals must be for a 'lawful corporate purpose as determined by the Authority,' and (b) the Authority must determine, taking into account among other considerations anticipated future receipt of revenues or other moneys constituting part of the Trust Estate, that the funds to be so withdrawn are not needed for (i) payment of reasonable and necessary operating expenses, (ii) an Operating Fund reserve in amounts determined by the Authority to be adequate for working capital, emergency repairs or replacements, major renewals or for retirement from service, decommissioning or disposal of facilities, (iii) payment of, or accumulation of a reserve for payment of, interest and principal on senior debt or (iv) payment of interest and principal on subordinate debt.

Under the Bond Resolution, Capital Costs (which includes capital costs related to the Canal Corporation) may be paid without satisfying the provision described above.

DISCUSSION

With this authorization, the Trustees will have authorized the release of a cumulative \$68.4 million, an amount equal to 75% of the Canal Corporation's 2020 O&M Budget. With regard to Canal Corporation's operating expenses in excess of \$68.4 million in calendar year 2020, staff is not requesting any action at this time, but will return to the Board to request additional releases, as needed.

Staff has reviewed the effect of releasing up to an additional \$22.8 million in funding at this time on the Authority's expected financial position and reserve requirements. In accordance with the Board's Policy Statement adopted May 24, 2011, staff calculated the impact of this release, together with the last

12 months releases including (i) the release of \$30 million in Recharge New York Discounts for 2020, (ii) the release of up to \$68.4 million in Canal-related operating expenses for 2020 (\$22.8 million authorized in December 2019, \$22.8 million authorized in March 2020, and \$22.8 million of which the Trustees are being asked to authorize at this May 2020 meeting), (iii) the release of up to \$2 million in Western NY Power Proceeds net earnings, and (iv) the release of up to \$1 million in Northern NY Power proceeds net earnings, on the Authority's debt service coverage and determined it would not fall below the 2.0 reference level. Based on the Authority's Four-Year Budget and Financial Plan, the 2.0 reference point level is forecasted to be met at each year-end of the forecast period 2020-2023. Given the current financial condition of the Authority, its estimated future revenues, operating expenses, debt service and reserve requirements, staff is of the view that it will be feasible for the Authority to release such amounts from the trust estate created by the Bond Resolution consistent with the terms thereof.

FISCAL INFORMATION

Staff has determined that sufficient funds are available in the Operating Fund to release an additional up to \$22.8 million in funding to support the operation of the Canal Corporation in calendar year 2020. Staff has further determined that the amounts presently held in reserves in the Operating Fund are adequate for the purposes specified in Section 503.2 of the Authority's Bond Resolution and that such Authority funds are not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's Bond Resolution.

The expenses associated with the operations of the Canal Corporation for calendar year 2020 were included in the Canal Corporation's 2020 O&M Budget and the Authority's 2020 Budget.

RECOMMENDATION

The Chief Financial Officer and the Finance Committee recommend that the Trustees authorize the release of an additional up to \$22.8 million in funding to the Canal Corporation to support the operations of the Canal Corporation in calendar year 2020. The Chief Financial Officer further recommends that the Trustees affirm that such release is feasible and advisable, that the amounts presently set aside as reserves in the Operating Fund are adequate for the purposes specified in Section 503.2 of the Authority's Bond Resolution, and that the amount of up to \$22.8 million is not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's Bond Resolution.

The Finance Committee, at its May 14, 2020 meeting adopted a resolution authorizing the release of this additional funding.

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

Mr. Adam Barsky, Executive Vice President and Chief Financial Officer, provided highlights of staff's recommendation to the Board.

On motion made by Trustee Balboni and seconded by Vice Chair Nicandri, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees hereby authorize the release of an additional up to \$22.8 million in funding to the Canal Corporation to support operations of the Canal Corporation in calendar year 2020, as discussed in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the amounts presently set aside as reserves in the Operating Fund are adequate for the purposes specified in Section 503.2 of the Authority's Bond Resolution, that

the amount of up to \$22.8 million in funding as described in the foregoing report is not needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented, and that the release of such amount is feasible and advisable; and be it further

RESOLVED, That as a condition to making the payments specified in the foregoing report, on the day of such payments, the Treasurer shall certify that such monies are not then needed for any of the purposes specified in Section 503(1)(a)-(c) of the Authority's General Resolution Authorizing Revenue Obligations, as amended and supplemented; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer, the Corporate Secretary, the Treasurer and all other officers of the Authority be, and each of them hereby is, authorized and directed, for and in the name and on behalf of the Authority, to do any and all things and take any and all actions and execute and deliver any and all certificates, agreements and other documents that they, or any of them, may deem necessary or advisable to effectuate the foregoing resolution, subject to approval as to the form thereof by the Executive Vice President and General Counsel.

ii. **Utility Operations**

1. **Small Clean Power Plants – LM6000 Master Service and Parts Agreement – Contract Award**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to approve the award of a ten-year agreement in the amount of \$80 million to GE Package Power LLC ('GE') of Houston, Texas, for the Small Clean Power Plants ('SCPP') LM6000 Turbine and Generator Repairs, Maintenance and Upgrades and New Technology.

The Finance Committee at its May 14, 2020 meeting adopted a recommendation that the Trustees approve the award of this ten-year contract.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year. Additionally, in accordance with the Authority's Expenditure Authorization Procedures ('EAPs'), the award of non-personal services contracts exceeding \$6 million requires the Trustees' approval.

The New York Power Authority ('Authority') owns and operates eleven (11) LM6000 GE Gas Turbines in the Southeast New York ('SENY') region. Ten (10) units are located at six (6) SCPP locations within New York City and one (1) in Suffolk County, Long Island.

Agreed-upon services include, but are not limited to, the performance of on-site maintenance, service center maintenance including both scheduled and unscheduled work, mini-overhauls, emergency repair support and the provision of spare parts at a discounted rate for the eleven LM6000 PC Gas Turbine Generator Packages. The Authority's Fleet has been effectively maintained and serviced by GE, the Original Equipment Manufacturer ('OEM'), since its inception. Both scheduled and unscheduled service on-site as well as at the GE repair service center has been performed with satisfactory results. In the event of an unscheduled emergency repair, GE has demonstrated the consistent capacity to support the Authority's efforts to maintain the high level of performance, reliability and availability required of the Authority's Fleet. There have been no problems related to Warranty issues or to GE's response time for unscheduled events.

This contract will cover the costs associated with the scheduled work necessary to maintain the eleven 18-year old turbines. This includes, but is not limited to, turbine and generator inspections, overhauls, turbine hot section inspections and replacements, borescope inspections and trouble shooting. The funding associated with this agreement was also calculated to absorb any failures that may occur on the covered equipment.

This agreement will also provide a GE Leased Engine under a pre-determined rate schedule. When directed by the Authority, GE will provide a lease engine within 96 hours of a written request. The lease engine will cover the SCPP Fleet of LM6000 engines and generators in the event of an engine failure.

As a result of new technologies, and efforts to meet the Governor's mandate of emissions reduction, GE is developing newer technologies, the Hybrid EGT Solution designed to couple batteries to the gas turbine to help grid stability with renewable intermittent resources. GE is also testing newer combustion technologies which will help reduce the emissions emitted from the Authority's units. Both the New Hybrid Solution and emerging technologies, especially in the combustion areas, will assist in meeting the Governor's mandate of carbon reduction.

DISCUSSION

In response to the Authority's Request for Proposal ('RFP'), Inquiry No. Q18-6522DKT was issued through the Authority's Ariba system and was advertised in the New York State *Contract Reporter* on September 21, 2018. Five firms were invited into the Ariba Event with thirty firms having viewed the RFP on the Strategic Supply Management's ('SSM') website. Two firms attended the site visit on October 1, 2018. Six bid addenda were issued via Ariba answering bidders' questions, clarifying technical scope aspects, and changing the bid due date. On October 29, 2018, two proposals were received from GE and ProEnergy Services of Sedalia, MO, to provide scheduled maintenance services as well as emergency repair, support services and engineering, turbine and generator upgrades for the SSCP LM6000 Gas Turbine Fleet. This is a time and materials contract including lease rates for a loaner engine.

The proposals were reviewed by an Evaluation Committee comprising of the following staff members: SENY Operations (K. McCoy, T. Zandes), SSM (D. Keough, K Turvey).

Consistent with the Authority's Procurement Policy, the proposals have been evaluated for price, proposal completeness, schedule, warranty, exceptions taken to the Bid Documents, experience, quality control, safety, and environmental plan.

GE Packaged Power LLC

GE's proposal was complete, and the company is technically qualified to provide these services. GE is the current holder of the contract and is the OEM of most of the equipment. Per GE's proposal, the company will provide rotatable spare parts to develop a maintenance strategy that is utilized by the Fleet to make scheduling easier. This approach was developed under the last contract with the LPT Lease Program and has proven to be beneficial to both GE and the Authority. It has resulted in a reduction of outage time, schedule being met and the ability to work on modules during off peak seasons, and a reduction in overtime to meet schedules. The engine lease agreement is unique to the Authority's contract since the Authority does not utilize the lease often and use it on an emergency basis only. The one-time fee and cost for run time is a considerable savings to the Authority. GE also offers discounted pricing on parts off the GE published list pricing. The Authority also receives a discount for tooling and GE does not charge for the shipping container rental when the turbines require service center work.

In addition, GE will provide 24-hour on-call engineering and field support services under this contract.

The Authority has partnered with GE Engineering on several occasions to develop maintenance strategies and engineering improvements to the turbine and auxiliary equipment that GE has adapted at other facilities. This is a testament to the relationship approach and not just a maintenance and repair contract.

GE has taken several exceptions in its proposal. All terms and conditions have been mutually agreed upon.

ProEnergy

ProEnergy's proposal was complete and the company is technically qualified to perform the services; however, based on best value, ProEnergy's pricing ultimately was higher in the overall cost for the contract's life. ProEnergy's proposal also indicated that parts and tooling will be marked up from GE's list prices. Also, shipping container rental charges will apply, and test cell costs were considerably higher than GE's when performing work in their service center which adds additional costs for this contract. In addition, ProEnergy's costs to provide the lease of an engine is much higher than GE's proposal.

Based on the above, the added costs and the annual fee for the lease engine program increases ProEnergy's proposed bid to be higher than GE's.

FISCAL INFORMATION

This contract is a Transactional Agreement. All funds will be released into individual Purchase Order Requests that will abide by and follow all the Authority's EAPs. Maintenance on the SSCP In-City GT Fleet is budgeted out for 10 years and is represented in the Regional Asset Management Plan ('RAMP'). All currently identified risks associated with the Fleet are documented in the risk registry. All projects upgrades will be clearly defined in the Utility Operations Project Portfolio ('UOPP') and proceed through the UOPP approval processes.

RECOMMENDATION

The Senior Vice President – Power Supply and the Regional Manager – South East New York ('SENY') recommends that the Trustees approve the award of a ten-year contract agreement in the amount of \$80,000,000 to GE Package Power LLC., required for the Turbine and Generator Repairs, Maintenance and Upgrades of the Small Clean Power Plant LM6000 Fleet.

The Finance Committee, at its May 14, 2020 meeting, adopted a resolution that the Trustees approve the award of this contract agreement.

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

Mr. Joseph Kessler, Executive Vice President and Chief Operations Officer, provided highlights of staff's recommendation to the Board.

On motion made by Trustee Balboni and seconded by Trustee Trainor, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, that pursuant to the Guidelines for Procurement Contracts adopted by the Authority and the Authority's Expenditure Authorization Procedures, approval is hereby granted to approve a ten-year contract award in the amount of \$80 million to GE Package Power LLC of Houston, Texas for the Small Clean Power Plants LM6000 Fleet Turbine and Generator maintenance, repairs, and upgrades;

| <u>Contractor</u> | <u>Contract Amount</u> |
|---|------------------------|
| GE Package Power LLC. Houston, TX (Q18-6522DKT) | <u>\$80,000,000</u> |

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iii. Commercial Operations

1. **E-Mobility Program: Authorization to Expand Vendor Pool and Contract Capacity for Electric Vehicle Charging Station Projects**

The President and Chief Executive Officer submitted the following report:

SUMMARY

In connection with the Authority's e-Mobility Program and expanding interest in electric transit bus charging systems from the Authority's customer base, the Trustees are requested to approve the following requests that were reviewed and recommended by the Finance Committee at their May 14, 2020 meeting: (a) an expansion of the vendor pool for the e-Mobility Program to include fourteen (14) additional contract awards to the following firms: ABM Electrical Power Services, ChargePoint, ClipperCreek, Electrify America, EVSE LLC, FreeWire Technologies, Heliox Technology, LilyPad EV, Maverick Construction Corporation, PlugIn Stations Online LLC, SemaConnect, Siemens Industry, Solar Liberty Energy Systems, and Teamex Corporation and (b) for the twenty (20) firms in the vendor pool, an increase in overall contract capacity from \$60 million to \$150 million, in aggregate.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year. Additionally, in accordance with the Authority's Expenditure Authorization Procedures, the award of construction services contracts exceeding \$6 million requires the Trustees' approval.

In 2018, the Trustees authorized the award of six (6) value contracts with a total cumulative value of up to \$60 million to support the Authority's EVolve NY and e-Mobility programs (RFP Q18-6430MH). Awards were issued to the following contractors: Apex Solar Power of Queensbury, New York, EV Connect, Inc. of El Segundo, CA, Efacec USA, Inc. of Norcross, GA, EVgo Services LLC of Los Angeles, CA, Verdek LLC of Madison, CT, Zeco Systems, Inc. (dba Greenlots) of Los Angeles, CA. At that time, it was contemplated that advances in technologies and other market conditions would require the Authority to re-evaluate its vendor resources and select those firms possessing state-of-the-art qualifications and resources.

Staff developed new spending projections for electric vehicle charging station projects based on increased interest in fleet electrification after Governor Cuomo's Climate Leadership and Community Protection Act ('CLCPA') was signed in 2019. CLCPA is the most comprehensive climate legislation in the nation, aiming to make New York a carbon neutral economy by 2050. CLCPA contains nation-leading clean energy targets including increasing the Clean Energy Standard from 50% to 70%, the reduction of greenhouse gas emission by 85% by 2050 from 1990 levels, and the development of 9,000 MW of Offshore wind capacity by 2035. CLCPA, along with Governor Cuomo's REV 2030 goals, establish a framework that positions the electric sector to play a key role in how these changes take place and, as the electric system becomes increasingly clean and renewable, support the electrification of fossil fuel intensive sectors such as transportation. Electrifying transportation, which currently contributes 40% of total GHG and is the most polluting sector, is a fundamental strategy to meet CLCPA's 85x50 goals. This has led to increased interest in electric vehicle technology for both large fleets and vehicles owned by the general public.

DISCUSSION

As a result of increased interest in transit bus electrification, the Authority released an updated solicitation (Q19-Q18-6430MH) on April 5, 2019. The evaluation team received twenty-six (26) proposals on or prior to May 24, 2019. The team is requesting that the Trustees authorize the award of contracts to

fourteen (14) additional firms. The team is also requesting that the value contracts for three firms selected in the original RFP be increased based on updated pricing, equipment choices or services that they submitted under the recent solicitation.

The additional contract awards recommended by the evaluation team are listed below with the associated categories. These value contracts will be coterminant with the original six on November 14, 2023.

1. ABM Electrical Power Services, LLC of Sugarland, TX – full turnkey, overhead bus charging
2. ChargePoint, Inc. of Campbell, CA – equipment only, overhead bus charging
3. ClipperCreek, Inc. of Auburn, CA – equipment only
4. Volkswagen Group of America Inc. d/b/s/ Electrify America, LLC of Herndon, VA – full turnkey, alternative business models
5. EVSE LLC of Enfield, CT – equipment only
6. FreeWire Technologies, Inc. of San Leandro, CA – equipment only
7. Heliox Technology Inc. of Dover, DE – overhead bus charging
8. LilyPad EV LLC of Overland Park, KS – equipment only
9. Maverick Construction Corporation of Boston, MA – full turnkey
10. PlugIn Stations Online LLC of Albany, NY – full turnkey, overhead bus charging
11. SemaConnect of Bowie, MD – full turnkey
12. Siemens Industry Inc of Wendell, NC – overhead bus charging, equipment
13. Solar Liberty Energy Systems, Inc. of Buffalo, NY – installation only
14. Marubeni America Corporation of New York, NY represented by Teamex Corp. of Vienna, VA – equipment only

In addition, three of the six (6) firms which were awarded value contracts from the 2018 pool of developers through RFP Q18-6430MH demonstrated that they have acquired new experiences and qualifications in the market and have improved on their original prices and/or provided prices for new equipment and services. It is recommended that those value contracts be amended to reflect the experiences and qualifications since acquired. The firms are:

1. Efacec USA, Inc. of Norcross, GA – equipment only
2. EV Connect, Inc. of El Segundo, CA – full turnkey, overhead bus charging, alternative business models
3. Verdek LLC of Madison, CT – full turnkey, overhead bus charging

FISCAL INFORMATION

The additional funding will be provided from the Authority's Operating Fund, Capital Fund and/or proceeds of the Authority's Commercial Paper Notes or other financing instruments, as deemed applicable. In addition, projects may be funded, in part, with monies from Petroleum Overcharge Restitution ('POCR') funds. Funding will be allocated as projects are assigned based on each firm's performance and workload, subject to the Authority's Expenditure Authorization Procedures. All Authority costs, including Authority overheads and the costs of advancing funds, but excluding the POCR and certain types of grants, will be recovered. The expenditures associated with the EVolve NY Program in these contracts were included in the Authority's 2020 Budget and 2020-2023 Four-Year Budget and Financial Plan.

RECOMMENDATION

The Executive Vice President and Chief Commercial Officer, and the Vice President – e-Mobility and Grid Flexibility request that the Trustees approve (a) an expansion of the vendor pool for the e-

Mobility Program to include fourteen (14) additional contract awards to the following firms: ABM Electrical Power Services, ChargePoint, ClipperCreek, Electrify America, EVSE LLC, FreeWire Technologies, Heliox Technology, LilyPad EV, Maverick Construction Corporation, PlugIn Stations Online LLC, SemaConnect, Siemens Industry, Solar Liberty Energy Systems, and Teamex Corporation and (b) for the twenty firms in the vendor pool, an increase in overall contract capacity from \$60 million to \$150 million in aggregate.

The Finance Committee, at its May 14, 2020 meeting, adopted a resolution that the Trustees approve these awards.

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

Mr. John Markowitz, Director of eMobility Technology & Engineering, provided highlights of staff's recommendation to the Board.

On motion made by Trustee Balboni and seconded by Vice Chair Nicandri, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees, in accordance with the Guidelines for Procurement Contracts adopted by the Authority and the Authority's Expenditure Authorization Procedures, approve (a) an expansion of the vendor pool for the EVolve NY and e-Mobility Programs to include fourteen (14) additional contract awards to the following firms: ABM Electrical Power Services, ChargePoint, ClipperCreek, Electrify America, EVSE LLC, FreeWire Technologies, Heliox Technology, LilyPad EV, Maverick Construction Corporation, PlugIn Stations Online LLC, SemaConnect, Siemens Industry, Solar Liberty Energy Systems, and Teamex Corporation and (b) for the twenty firms in the vendor pool for the e-Mobility Program, an increase in overall contract capacity from \$60 million to \$150 million, in aggregate, to perform services which include providing charging station hardware, software and installation services, including, but not limited to, design, engineering, procurement, construction management, installation, and extended warranty services;

| <u>Contractors</u> | <u>Aggregate Contract Capacity</u> |
|--|------------------------------------|
| The original six vendors under retainer: | |
| • Apex Solar Power of Queensbury, New York | |
| • EV Connect, Inc. of El Segundo, CA | Up to \$150,000,000 |
| • Efacec USA, Inc. of Norcross, GA | |
| • EVgo Services LLC of Los Angeles, CA | |
| • Verdek LLC of Madison, CT | |

- Zeco Systems, Inc. (dba Greenlots) of Los Angeles, CA

The additional 14 vendors to be awarded:

- ABM Electrical Power Services, LLC of Sugarland, TX
- ChargePoint, Inc. of Campbell, CA
- ClipperCreek, Inc. of Auburn, CA
- Volkswagen Group of America Inc. d/b/s/ Electrify America, LLC of Herndon, VA
- EVSE LLC of Enfield, CT
- FreeWire Technologies, Inc. of San Leandro, CA
- Heliox Technology Inc. of Dover, DE
- LilyPad EV LLC of Overland Park, KS
- Maverick Construction Corporation of Boston, MA
- PlugIn Stations Online LLC of Albany, NY
- SemaConnect of Bowie, MD
- Siemens Industry Inc. of Wendell, NC
- Solar Liberty Energy Systems, Inc. of Buffalo, NY
- Marubeni America Corporation of New York, NY represented by Teamex Corp. of Vienna, VA

(Q19-Q18-6430MH)

AND BE IT FURTHER RESOLVED, That the Trustees affirm that the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer, the Chief Commercial Officer, the Vice President – e-Mobility and Grid Flexibility, and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iv. **Legal Operations**

1. **Procurement (Services) Contract –
Legal Services Contract Awards**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to approve the award and funding of the 28 multi-year legal services contracts to the law firms listed in Exhibit '4b iv-1-A' attached hereto. These awards will be for a term of up to five years with an aggregate value of \$17.75 million. The recommendations are the culmination of a Request for Proposals ('RFP') and evaluation process which identified law firms capable of providing quality legal services to the Authority on an 'as needed' basis. Having multiple firms under contract allows the Authority flexibility in selecting counsel depending on the Authority's needs in various subject matter areas, including general, energy and bond, underwriter, and disclosure counsel.

Also, the Trustees are requested to approve a time extension only for the eleven contracts listed on Exhibit '4b iv-1-B' until the new contract awards being requested today for these Exhibit '4b iv-1-B' firms are fully executed or for a period of three months, whichever is less. This interim extension will allow the firms to continue working without interruption on pending Authority matters.

The Finance Committee at its May 14, 2020 meeting adopted a recommendation that the Trustees approve the contract awards.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require Trustee approval for procurement contracts involving services to be rendered for a period in excess of one year. In accordance with the Authority's Expenditure Authorization Procedures, the award of non-personal services contracts exceeding \$6 million require the Trustees' approval.

DISCUSSION

On December 17, 2019 a Request for Proposals Q19-6856SS was advertised in the New York State *Contract Reporter* for General, Energy and Bond, Underwriter & Disclosure Counsel ('Bond') services and posted on the NYPA.gov website and Ariba. Eighty-two (82) firms viewed the event notice on the Authority's Strategic Supply Management ('SSM') website and 34 firms submitted proposals by the due date of February 5, 2020.

The issuance of up to five-year contracts (three-year term with an option for two additional years) is necessitated by both cost and efficiency considerations. In many cases, multi-year retainers result in favorable pricing. Also, assigned legal matters may extend longer than a year and require consistency in service. It is more efficient to award long-term contracts than to rebid annually. Contracts will be awarded to the selected firms without a dollar value and the Authority will not be obligated to assign work to any firm. All of the recommended contracts will allow the Authority, in its sole discretion, to terminate services without liability other than paying for acceptable services rendered to the effective date of termination.

Three evaluation teams, General, Energy and Bond, comprised of representatives from Law, Corporate Finance and Commercial Operations reviewed the proposals and conducted interviews when deemed appropriate. The teams used the same evaluation criteria which included completeness and quality of the response to the RFP, subject matter expertise, experience in representing public entities, prior experience with the Authority, hourly rates (or alternative billing arrangements), approach to handling matters, including staffing, Minority/Women-owned Business Enterprise ('M/WBE') requirements, extent and nature of any exceptions to the Authority's proposed contract. Due to the coronavirus

pandemic, any interviews were virtual and were evaluated on factors including a firm's knowledge of the Authority, level of firm representation, and quality of presentation in style and substance.

The requested proposals for services in the General Law category include, but are not limited to, labor, employment and employee benefits, federal and state contracts, real estate management, immigration, licensing, tort, intellectual property, information technology, environmental matters; representation before federal and state administrative and judicial bodies; and other services, as required.

Energy Law services include, but are not limited to, power purchases and sales, hedging, energy trading and markets; renewable energy and transportation matters including development of standard documents for solar, wind, demand side management, electric transportation, distributed energy management, grant funding and co-development agreements; representation before federal and state administrative and judicial bodies; and other services, as required.

Bond, Underwriter & Disclosure services include, but are not limited to, acting as bond counsel for the Authority, tax related services for all aspects of municipal finance, i.e., preliminary official statements, rendering objective opinions regarding authorization and bond issuance, resolutions, notices in connection with financings and federal and state tax and securities law matters. Underwriter and disclosure counsel services may be required.

Firms will be awarded contracts without specificity or limitation as to any subject matter area and any of their services will be available to the Law Department. This is prudent, as in addition to the Authority's core subject matter areas, emerging legal issues arise, and the selected firms have the ability to respond.

Three firms, Devaprasad PLLC, Hardwick Law Firm LLC and Bryant Rabbino LLP are New York State-certified MBE firms and one firm, Mintzer Mauch PLLC is a New York State Certified WBE firm. The Authority's Supplier Diversity Practice will work with the other firms to identify and partner with certified M/WBE firms as part of their work for the Authority.

Also, the Trustees are requested to approve a time extension only for the eleven contracts listed on Exhibit '4b iv-1-B' until the new contract awards being requested today for these Exhibit '4b iv-1-B' firms are fully executed or for a period of three months, whichever is less. This interim extension will allow the firms to continue working without interruption on pending Authority matters.

FISCAL INFORMATION

Funds required to support contract services are available through the Law Department Outside Counsel budget, which has been included in the 2020 approved O&M Budget and the Four-Year Budget and Financial Plan for 2020-2023, or, in the case of debt issuances, from the proceeds of the sale of the Authority's debt instruments. Funds for subsequent years, where applicable, will be included in the budget submittals for those years, as well as from capital funding (where appropriate) as tasks are assigned. Payment will be made from the Operating Fund.

RECOMMENDATION

The Executive Vice President and General Counsel, the Executive Vice President and Chief Financial Officer and the Vice President – Strategic Supply Management recommend the Trustees' approval of the award of procurement contracts for a term of up to five years, in an aggregate amount of \$17.75 million, to the law firms set forth in Exhibit '4b iv-1-A' attached hereto above, for the purposes set forth above.

In addition, it is recommended that the Trustees approve a time extension only for the eleven contracts listed on Exhibit '4b iv-1-B' until the new contract awards for these Exhibit '4b iv-1-B' firms are fully executed or for a period of three months, whichever is less.

The Finance Committee at its May 14, 2020 meeting adopted a resolution that the Trustees approve the contract awards.

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

Mr. Justin Driscoll, Executive Vice President and General Counsel, provided highlights of staff's recommendation to the Board.

On motion made by Trustee Trainor and seconded by Trustee Balboni, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority and the Authority's Expenditure Authorization Procedures, approval is hereby granted for the award and funding of the procurement services contracts to the law firms listed in Exhibit “4b iv-1-A” attached hereto, for a term of up to five years, in an aggregate amount of \$17.75 million, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That a time extension only for the eleven contracts listed on Exhibit “4b iv-1-B” is hereby granted until new contract awards for the Exhibit “4b iv-1-B” firms are fully executed or for a period of three months, whichever is less; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

v. **Information Technology**

1. **Information Technology Contingent Staffing – Multiple Contract Awards**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to approve the award of personal service contracts to the twelve (12) bidders listed in Table 2 below for an aggregate amount of \$28 million and a term of three years, with the option for an additional two years.

The request represents the projected expenditures for Information Technology ('IT') contingent staffing over the period from 2020-2025.

Payments associated with the IT contingent staffing contracts will be made from the Authority's operating and capital funds. No additional funds are being requested at this time.

The Finance Committee, at its May 14, 2020 meeting, adopted a resolution recommending that the Trustees approve the award of these personal service contracts.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year. In accordance with the Authority's Expenditure Authorization Procedures, procurement contracts in excess of \$6 million require the Trustees' approval.

These contracts will be utilized for the purpose of providing temporary IT services contingent staffing for the Authority.

The Authority has an immediate need to utilize these new staffing contracts to close resource gaps related to attrition and to support NYPA's workforce growth demand. This increase in demand is driven by new business objectives such as Digital Operations, NYPA's Communications Backbone Program and related Digital Utility Projects.

DISCUSSION

In response to the Authority's request for proposal (Q19-6725JW), advertised in the New York State *Contract Reporter* on November 19, 2019, fifty-four (54) firms submitted proposals on the bid's due date of December 12, 2019.

The evaluation team, comprised of Human Resources, Strategic Supply Management and IT, reviewed and considered many aspects of the proposals including, but not limited to, quality of proposal, recruitment staff and their qualifications, industry experience, recruitment process, strengths, unique characteristics, prior performance, if applicable, and acceptance of the Authority's commercial terms and conditions.

The below vendors were not selected as they did not offer best value to the Authority:

| Vendors Not Selected | |
|---------------------------------|---------------------|
| 22nd Century Technologies, Inc. | Mindlance Inc |
| Akeno LLC | Mitchell Martin Inc |

| | |
|--|---|
| Amtex Systems Inc. | Momentum Resource Solutions |
| Ateeca Inc | Montco Inc(Rotator Staffing Services Inc) |
| CALSOFT Labs | Neotecra, Inc |
| Cambay Consulting LLC | Rangam Consultants Inc. |
| CEM Technology, Inc | Sapta Global Inc |
| Donnelly & Moore Corp. | SeamlessWorld Consulting LLC |
| Driven, Inc. | SoftHQ, Inc. |
| Genesys Consulting Services, Inc. | Software Guidance & Assistance Inc. (SGA) |
| Harvey Nash, Inc. | Source of Future Technology, Inc. (SOFT Inc.) |
| Indotronix International Corporation (IIC) | Stellar Services, Inc. |
| Infinity Systems Software, inc | SVAM International, Inc. |
| Infojini, Inc | Synergistic Systems, Inc |
| InfoPeople Corporation | SYSTEM EDGE (USA) LLC |
| Intellyk Inc | System One |
| IT Trailblazers LLC | Talent Technical Services, Inc. |
| Kyyba, Inc. | TriVision Group Inc |
| L. J. Gonzer Associates | Utegration LLC |
| Lehigh Technical Service | V Group Inc. |
| Mentis Systems Inc. | World Networking Services Inc |

Table 1

The topmost assessed bidders met the evaluation criteria and were determined to be the most technically qualified bidders with competitive billing rates. Based on the aforementioned considerations, the evaluation team recommends that the following twelve (12) vendors be issued contracts in order to provide IT contingent staffing services:

| Vendor | Certified NYS MBE | Certified NYS WBE | Previous NYPA Experience |
|---------------------------------|----------------------|----------------------|-----------------------------|
| Ampcus Inc. | | | |
| Cogent Infotech Inc. | √ | | |
| Crossfire Consulting Inc. | | √ | |
| Eclaro International Inc. | √ | | √ |
| Experis US Inc. | | | |
| InfoQuest Consulting Group Inc. | | | |
| LanceSoft Inc. | | | √ |
| Spruce Inc. | √ | | |
| The Judge Group Inc. | | | |
| Trigyn Technologies Inc. | | | √ |
| Unique Comp Inc. | √ | √ | √ |
| Vtech Solutions Inc. | | | √ |

Table 2

As the need arises for specific contingent staffing services for IT related projects, the Authority will request resumes from all of the pre-qualified firms. Each vendor has the opportunity to submit resumes for consideration via the Authority's HireWorks system. Such competition will provide the Authority with qualified talent from a variety of sources. Pre-negotiated contracts (Outline Agreements) will be issued to all firms. The hiring supervisor will review the resumes, interview candidates, and select the most qualified individual for the required position at the contractual hourly rate. Once the candidate successfully completes a background check, a Purchase Order Release will be issued to the successful

vendor specifying the hiring supervisor, successful candidate's name, job title, location, hourly rate, and term of service required.

Based on past utilization history and the IT forecast for the next five (5) years, it is recommended that the twelve (12) contracts have an aggregate value of \$28 million with a term of three years with the option for an additional two years. The terms of service shall commence on or about July 1, 2020, subject to the Trustees' approval.

FISCAL INFORMATION

Payments associated with the IT contingent staffing contracts will be made from the Authority's approved operating and capital funds.

RECOMMENDATION

The Senior Vice President – Information Technology recommends that the Trustees approve the award of personal service contracts for contingent staffing to the 12 bidders listed above, for an aggregate amount of \$28 million, and a term of three years, with the option for an additional two years.

The Finance Committee at its May 14, 2020 meeting adopted a resolution recommending that the Trustees approve the award of these personal service contracts.

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

Mr. Robert Piascik, Senior Vice President and Chief Information Officer, provided highlights of staff's recommendation to the Board.

On motion made by Vice Chair Nicandri and seconded by Trustee Trainor, the following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority and Authority's Expenditure Authorization Procedures, the Information Technology personal service contracts for contingent staffing are hereby approved as recommended in the foregoing report of the President and Chief Executive Officer, in the amount and for the purpose listed below:

| <u>Contract Award</u> | <u>Contract Award Value</u> |
|----------------------------|-----------------------------|
| Multiple Vendors (Table 2) | <u>\$ 28,000,000</u> |
| Q19-6725JW | |

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

5. CONSENT AGENDA:

On motion made by Trustee Balboni and seconded by Trustee Trainor, the members approved the Consent Agenda.

a. Commercial Operations

i. Expansion Power Allocations

The President and Chief Executive Officer submitted the following report:

"SUMMARY"

The Trustees are requested to:

1. Approve: (a) an allocation of 3,000 kilowatts ('kW') of Expansion Power ('EP') to Rosina Food Products, Inc. ('Rosina') to support the company's proposed expansion at a site located at 3100 Clinton Street in West Seneca, Erie County; and (b) an allocation of 500 kW of EP to Petri Baking Products, Inc. ('Petri') to support its proposed expansion at a site located at 18 Main Street in Silver Creek, Chautauqua County. These projects are discussed in detail below and in Exhibits '5a i-A,' '5a i-A-1' and '5a i-A-2.'
2. Authorize a public hearing, in accordance with Public Authorities Law ('PAL') §1009, on a proposed form of contract with Petri ('Proposed Contract') that would, along with Authority Service Tariff No. WNY-2 ('ST WNY-2'), apply to the sale of EP to Petri. Copies of the Proposed Contract and ST WNY-2 are attached as Exhibit '5a i-B.'¹

BACKGROUND

Under Public Authorities Law ('PAL') §1005(13), the New York Power Authority ('NYPA' or 'Authority') may contract to allocate 250 megawatts ('MW') of firm hydroelectric power as EP and up to 445 MW of Replacement Power ('RP') to businesses in the State located within 30 miles of the Niagara Power Project, provided that the amount of power allocated to businesses in Chautauqua County on January 1, 1987 shall continue to be allocated in such county.

Each application for an allocation of EP and RP are evaluated under criteria that include but need not be limited to, those set forth in PAL §1005(13)(a), which details general eligibility requirements. Among the factors to be considered when evaluating a request for an allocation of hydropower are the number of jobs created as a result of the allocation; the business' long-term commitment to the region as evidenced by the current and/or planned capital investment in the business' facilities in the region; the ratio of the number of jobs to be created to the amount of power requested; the types of jobs to be created, as measured by wage and benefit levels, security and stability of employment, and the type and cost of buildings, equipment and facilities to be constructed, enlarged or installed.

The Authority works closely with business associations, local distribution companies and economic development entities to gauge support for the projects that would be supported with allocations of Authority hydropower. Discussions routinely occur with National Grid, New York State Electric & Gas, Empire State Development, Invest Buffalo Niagara, the Niagara County Center for Economic Development, and the Erie County Industrial Development Agency (collectively, the 'Economic Development Entities') to coordinate other economic development incentives that may help bring economic development to New York State. Staff confers with Economic Development Entities to help maximize the value of hydropower to improve the economy of Western New York and the State of New York. Each organization has expressed support for today's recommended EP allocations.

At this time, 67,895 kW of unallocated EP and 89,836 kW of unallocated RP is available to be awarded to businesses under the criteria set forth in PAL §1005(13)(a).

¹ The allocation for Rosina would be added to an existing hydropower contract between the Authority and Rosina.

DISCUSSION

Rosina Food Products, Inc.

Founded in 1963, Rosina manufactures a wide variety of frozen food products including meatballs, pasta, eggplant and sausage. The company currently employs approximately 500 people across four facilities in New York State. Rosina currently has 200 kW of EP supporting existing operations in West Seneca with an employment commitment of 159 jobs, and 350 kW of EP to support its Cheektowaga operations which is associated with an employment commitment of 141 jobs.

Rosina is proposing to construct a 105,000 square-foot manufacturing plant at 3100 Clinton Street in West Seneca, directly adjacent to its current West Seneca facility. The new plant would include new, high-speed production lines for manufacturing meatballs, sliced sausage, and toppings. Rosina anticipates that the new facility would produce approximately 40 million pounds of products annually. The company would be transferring approximately 10 million pounds of production, currently outsourced to a company in Chicago, to the new West Seneca plant. Rosina views the proposed West Seneca expansion as the first step in a potentially multi-faceted master plan to continue growing the company in Western New York.

Rosina's expansion project would involve a capital investment of at least \$58 million to accommodate construction, new production lines, machinery and equipment purchases, and site remediation costs. Construction costs would represent a capital investment expenditure of at least \$36 million which include the food manufacturing plant and associated waste treatment. Machinery and equipment purchases would collectively represent a capital investment expenditure of at least \$17 million. Microwaves, conveyers, thermal fluid ovens, compressors, and packaging equipment would be purchased within this phase of the project. Site remediation costs are estimated at \$5 million and will be performed in accordance with the State's Brownfield Cleanup Program. Rosina plans to have the project completed by 2021. The company also anticipates additional expansion opportunities at the West Seneca facility in the future.

The company would commit to the creation of 40 new, permanent, full-time jobs that would be located at the new West Seneca facility. The average compensation/benefits are estimated to be \$56,000 per job.

The company submitted an application requesting 3,900 kW of hydropower in connection with the project. Staff recommends an allocation of EP in the amount of 3,000 kW for a term of ten years.

The job creation ratio for the proposed allocation of 3,000 kW is 13 new jobs per MW. This ratio is below the historic average of 65 new jobs per MW based on allocations previously awarded. The total investment of at least \$58 million would result in a capital investment ratio of \$19.3 million per MW. This ratio is above the historic average of \$17.1 million per MW.

The Economic Development Entities have expressed support for the recommended allocation to Rosina.

Petri Baking Products, Inc.

Petri operated a cookie manufacturing plant at the proposed project site in Silver Creek for several decades beginning in the early 1950's. The company served as one of the leading employers in the area and manufactured a wide variety of cookies. In 2012, Petri was sold, and the plant was closed shortly thereafter.

In 2019, the building went on the market which former members of Petri's management team viewed as a unique opportunity to reestablish the company and create a 'new' Petri. Petri's proposed expansion project would consist of purchasing its former manufacturing facility and associated properties to reestablish large-scale soft cookie production. The company plans to later expand into other cookie

and snack food markets. Renovations and building improvements will be needed to ensure safe food production. Manufacturing and packaging equipment will be purchased and installed to accommodate various baking and production processes. The company would begin construction in May 2020 and commence production operations by January 2021. Petri also anticipates additional expansion opportunities at the Silver Creek facility in the future.

Petri's expansion would involve a capital investment expenditure of at least \$12.95 million. This amount includes \$2.8 million for acquisition of the building, associated property costs, and building improvements; \$7.3 million for machinery and equipment purchases including coolers, freezers, ovens, air compressors, flour systems, heated tanks, mixers, forklifts, etc.; and \$2.85 million for start-up and other costs.

The project would result in the creation of at least 85 new, permanent, full-time jobs at the Silver Creek facility. The average compensation/benefits are estimated to be \$64,000 per job.

The company's application requested 700 kW of hydropower to support its project. Staff recommends an allocation of EP in the amount of 500 kW for a term of ten years.

The job creation ratio for the proposed allocation of 500 kW is 170 new jobs per MW. This ratio is above the historic average of 65 new jobs per MW based on allocations previously awarded. The total project investment of at least \$12.95 million would result in a capital investment ratio of \$25.9 million per MW. This ratio is above the historic average of \$17.1 million per MW.

The Economic Development Entities have expressed support for the recommended allocation to Petri.

CONTRACT INFORMATION

The following is a summary of some of matters that would be addressed in ST WNY-2 and the Proposed Contract for Petri:

- Base rates for demand and energy, an annual adjustment factor, and a minimum monthly charge which helps the Authority cover fixed costs of serving a customer even when the customer does not utilize the allocation in a billing period.
- Direct billing of all production charges (i.e., demand and energy) as well as all New York Independent System Operator, Inc. charges, taxes, and any other required assessments.
- The provision of substitute energy in the event of hydropower curtailments caused by adverse water conditions that impact power project operations.
- Basic requirements for customer metering.
- Early outreach to the customer concerning allocation extension initiatives by the Authority.
- Requirements for energy audits at the facility receiving the allocation. The customer would have the option to satisfy the audit requirement through either a traditional physical audit, or a virtual audit using the Authority's New York Energy Manager which is expected to provide considerable savings for customers who select it.
- Periodic communications to customer about energy-related projects, programs and services offered by the Authority.

- Compliance provisions that allow the Authority to reduce a customer's allocation for a failure to meet supplemental commitments, with an opportunity for the customer to present a proposed plan with actionable milestones to cure deficiencies.
- The collection of a Zero Emission Credit Charge and Monthly Renewable Energy Credit Charge to allow the Authority to recover costs it incurs relating to its purchase of Zero Emission Credits and Renewable Energy Credits attributable to the customer's load.

Staff intends to discuss the form of the Proposed Contract with Petri and anticipates reaching agreement on a contract substantially similar to the form attached as Exhibit '5a i-B.' Accordingly, the Trustees are requested to authorize a public hearing, pursuant to PAL §1009, on the form of the Proposed Contract attached as Exhibit '5a i-B.' The form of the Proposed Contract is consistent with recently approved contracts for the sale of EP and RP and other Authority hydropower products.

As required by PAL §1009, when the Authority believes it has reached agreement with its prospective co-party on a contract for the sale of EP or RP, it will transmit the proposed form of the contract to the Governor and other elected officials, and hold a public hearing on the contract. At least 30-days' notice of the hearing must be given by publication once in each week during such period in each of six selected newspapers. Following the public hearing, the form of the contract may be modified, if advisable. Staff will report to the Board of Trustees on the public hearing and the Proposed Contract at a later time and make any additional recommendations regarding the Proposed Contract as are appropriate.

Upon approval of the final proposed contract by the Authority, the Authority must 'report' the Proposed Contract, along with its recommendations and the public hearing records, to the Governor and other elected officials. Upon approval by the Governor, the Authority is authorized to execute the final contract.

RECOMMENDATION

The Senior Vice President, Clean Energy Solutions, recommends that the Trustees:

1. approve an allocation of 3,000 kW of Expansion Power ("EP") to Rosina Food Products, Inc. as described herein and in Exhibits '5a i-A' and '5a i-A-1' for a term of ten years; and an allocation of 500 kW of EP to Petri Baking Products, Inc. ("Petri") as described herein and in Exhibits '5a i-A' and '5a i-A-2' for a term of ten years; and
2. authorize a public hearing, in accordance with PAL §1009 on the Proposed Contract with Petri attached as Exhibit '5a i-B.'

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

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That an allocation of 3,000 kilowatts ("kW") of Expansion Power be awarded to Rosina Food Products, Inc. for a term of 10 years as detailed in the foregoing report of the President and Chief Executive Officer ("Report") and Exhibits "5a i-A" and "5a i-A-1," be, and hereby is approved, subject to rates previously approved by the Trustees; and be it further

RESOLVED, That an allocation of 500 kW of Expansion Power be awarded to Petri Baking Products, Inc. ("Petri"), for a term

of 10 years as detailed in the foregoing report and Exhibits “5a i-A” and “5a i-A-2,” be, and hereby is approved, subject to rates previously approved by the Trustees; and be it further

RESOLVED, That the Trustees hereby authorize a public hearing pursuant to Public Authorities Law (“PAL”) §1009 on the terms of the proposed form of the direct sale contract for the sale of Expansion Power finally negotiated with Petri (the “Contract”), the current form of which is attached as Exhibit “5a i-B”; and be it further

RESOLVED, That the Corporate Secretary be, and hereby is, authorized to transmit a copy of the proposed Contract to the Governor, the Speaker of the Assembly, the Minority Leader of the Assembly, the Chairman of the Assembly Ways and Means Committee, the Temporary President of the Senate, the Minority Leader of the Senate and the Chairman of the Senate Finance Committee pursuant to PAL §1009; and be it further

RESOLVED, That the Chairman, the Vice Chair, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

ii. **Recharge New York Power – New, Extended, and Modified Allocations**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to authorize the extension of each of the existing 10 allocations of Recharge New York ('RNY') Power ('Allocation' or collectively 'Allocations') awarded to the businesses listed in Exhibit '5a ii-A' as described below for a term of 7 years, to commence on the expiration of each such Allocation, or in 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 (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 '5a ii-A' is in compliance with its contractual obligations to the Authority under its Current RNY Power Agreement.

The Economic Development Power Allocation Board ('EDPAB'), at its meeting held on May 11, 2020, recommended to the Trustees that each of the Allocations listed on Exhibit '5a ii-A' be extended for 7 years as further described herein.

The Trustees are also requested to approve modifications to the existing RNY Power allocations for the customers listed in Exhibit '5a ii-B.' The Allocations for these customers were conditionally extended based on commitments made in their existing RNY Power sale contracts with the Authority or extension applications. Since that time, the Authority has received additional information relating to these customers' circumstances and has conferred with the customers concerning such issues as power, employment and capital investment commitments, and/or other relevant matters. Based on this information, staff is requesting the Trustees to modify the allocations and/or supplemental commitments for the customers as described in Exhibit '5a ii-B' for the reasons detailed in Exhibit '5a ii-B.' EDPAB, at its meeting held on May 11, 2020, recommended that the modifications be approved.

The Trustees are further requested to award new allocations of RNY Power available for 'retention' purposes to the businesses listed in Exhibit '5a ii-C' 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 '5a ii-D' in the amounts indicated therein. These actions have been recommended by the Economic Development Power Allocation Board ('EDPAB') at its May 11, 2020 meeting.

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 §1005(13-a) (the 'RNY Statutes'). The

program makes available 910 megawatts ('MW') of 'RNY Power,' 50% of which will be provided by certain Authority 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 '5a ii-E' to this report. 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 '5a ii-C' and '5a ii-D,' 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 '5a ii-D,' 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 on six prior occasions spanning from October 2018 through December 2019. 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-six prior occasions spanning from April 2012 through March 2020. Of the 200 MW block of RNY Power made available pursuant to Chapter 60 for business 'expansion' purposes, 87.7 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, 4.2 MW remain unallocated. Of the remaining RNY Power made available pursuant to Chapter 60, 113.3 MW remain unallocated. These figures reflect Trustee actions on RNY Power applications taken prior to any actions the Trustees take today.

EDPAB, at its meeting held on May 11, 2020, recommended that the Trustees approve extensions for the 10 RNY Power allocations that are listed in Exhibit '5a ii-A.' EDPAB also recommended that the Trustees approve the modifications related to the RNY Power allocations described in Exhibit '5a ii-B' for the reasons discussed below and in Exhibit '5a ii-B.' In addition, EDPAB further recommended that each of the applicants identified in Exhibits '5a ii-C' and '5a ii-D' be awarded an RNY Power allocation in the amount indicated in the respective Exhibits.

Consistent with provisions of the RNY Statutes, EDPAB also recommended that the contract for the sale of these allocations contain:

- (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 to 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 RNY Power allocations that are awarded by the Trustees today 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 recommended by EDPAB that are described above.

DISCUSSION

1. Extension of Existing Allocations

For the current round of recommendations, Authority staff has reviewed applications from 10 RNY Power customers listed on Exhibit '5a ii-A' who are seeking extensions, and a copy of each application has been made available to the Board. Staff's review has consisted of a review on a customer-specific basis of such issues as the amount of each Allocation that would be extended, the supplemental commitments that these customers have made under their Current RNY Power Agreement and are prepared to make as consideration for an extension, and the customer's compliance status under its

Current RNY Power Agreement, 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 '5a ii-A.'

In summary, the businesses listed on Exhibit '5a ii-A,' which are located throughout the State, bring valuable benefits to the State. In total, the Allocations listed in Exhibit '5a ii-A' are supporting the retention of 30,798 jobs and \$549.2 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 summarized in Exhibit '5a ii-A' for the Extended Term.

At its meeting held on May 11, 2020, EDPAB recommended to the Trustees that each of the Allocations listed on Exhibit '5a ii-A' be extended for 7 years as described above.

Based on the foregoing discussion, staff recommends that the Trustees extend the Allocations listed on Exhibit '5a ii-A' as described above and in Exhibit '5a ii-A' subject to the following conditions:

- (a) The sale of any Allocation extended as proposed herein will be governed by the RNY Power contract form that was approved by the Trustees on March 26, 2019, and Authority Service Tariff RNY-1.
- (b) In order to receive an extension of its Allocation, the customer must agree, for the Extended Term, to provide the supplemental commitments for jobs and capital investments that are the same or substantially similar to those that are summarized generally in Exhibit '5a ii-A' (subject to adjustments described above), through the incorporation of such supplemental commitments in the final contract that is executed by the parties. With respect to capital investments, RNY Power customers who do not have current project/expansion capital investment commitments would be expected to meet a minimum capital investment commitment which may be satisfied through capital expenditures made over a five-year period.
- (c) Unless otherwise noted in Exhibit '5a ii-A,' the customer is in compliance with its contractual obligations to the Authority under its Current RNY Power Agreement.

Staff believes that an extension of each Allocation listed on Exhibit '5a ii-A' in the manner described is appropriate and is consistent with the statutory criteria that are used to evaluate applications for an award of RNY Power which are listed in Exhibit '5a ii-E.' In addition, the terms and conditions in the RNY Power contract form approved by the Trustees on March 26, 2019 are consistent with the terms and conditions recommended by EDPAB.

2. Modifications Related to Previously Extended Allocations

At its meeting held on May 11, 2020, EDPAB recommended that the Trustees approve modifications relating to the existing RNY Power allocations listed on Exhibit '5a ii-B' for Matt Industries, Inc. and Kaleida Health.

In connection with a transfer of an RNY Power allocation to Matt Industries, Inc., the employment commitment approved was 236, but should have been 170. Accordingly, staff is recommending that the amount of the company's extended employment commitment be revised to 170.

Kaleida Health was previously approved for an RNY Power allocation extension totaling 3,636 kW for use at facilities situated in a campus setting. The allocations were addressed in a single contract to eliminate the need for multiple contracts. Due to limited power availability at that time, staff was limited to extending the current in-service allocations under the campus agreement and unable to award the additional power to Kaleida for a newly added facility. Since that time, more power has become available

and staff is recommending that the amount of the company's extended allocation be increased by 540 kW from 3,636 kW to 4,176 kW.

Staff believes that the modifications listed in Exhibit '5a ii-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 '5a ii-E.' For these reasons, staff recommends that the Trustees approve the modifications listed in Exhibit '5a ii-B.'

3. Retention-Based RNY Power Allocations

The Trustees are asked to address applications submitted via the CFA process for RNY Power retention-based allocations. Unless otherwise indicated in Exhibit '5a ii-C,' these applications seek an RNY Power allocation for job retention purposes only.

Consistent with the evaluation process as described above, EDPAB recommended, at its May 11, 2020 meeting, that RNY Power retention allocations be awarded to the businesses listed in Exhibit '5a ii-C.' Each business has committed to retain jobs in New York State and to make capital investments at their facilities in exchange for the recommended RNY Power allocations. The RNY Power 'retention' allocations identified in Exhibit '5a ii-C' are each recommended for a term of 7 years unless otherwise indicated.

Staff recommends that the Trustees accept EDPAB's recommendations and award RNY Power allocations to each of the businesses listed on Exhibit '5a ii-C' in the amounts indicated therein.

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

The Trustees are also asked to address applications submitted via the CFA process for RNY Power for eligible small businesses and/or not-for-profit corporations. Chapter 60 specifies that no more than 100 MW of RNY Power may be made available for eligible small businesses and eligible not-for-profit corporations.

Consistent with the evaluation process described above, EDPAB recommended, at its May 11, 2020 meeting, that RNY Power allocations be awarded to the small businesses and/or not-for-profit applicants listed in Exhibit '5a ii-D.' These applicants have committed to retain or create jobs in New York State and make capital investments to the extent indicated in Exhibit '5a ii-D' in exchange for the recommended RNY Power allocations as described in Exhibit '5a ii-D.' The RNY Power allocations identified in Exhibit '5a ii-D' are recommended for a term of 7 years unless otherwise indicated.

Staff recommends that the Trustees accept EDPAB's recommendations and award RNY Power allocations to each of the not-for-profit entities and/or small businesses listed on '5a ii-D' in the amounts indicated.

In accordance with Chapter 60, if EDPAB's recommendation to award RNY Power allocations to the small businesses and/or not-for-profit applicants listed in Exhibit '5a ii-D' is accepted, the 100 MW block of power will be close to fully allocated. Accordingly, a waiting list has been established, when applicable, for small businesses and not-for-profit applicants that are potentially eligible to be awarded RNY Power allocations when additional power becomes available. Currently, there is enough remaining power within the 100 MW block for small businesses and/or not-for-profit applicants to award the allocations listed in Exhibit '5a ii-D,' and the waiting list would not need to be utilized at this time.

RECOMMENDATION

The Senior Vice President – Clean Energy Solutions recommends that the Trustees accept the recommendations of the Economic Development Power Allocation Board ('EDPAB'), and authorize the extension of each of the existing 10 Allocations of RNY Power in the manner described above for the customers listed on Exhibit '5a ii-A' for a term of 7 years to commence on the expiration of the Allocation,

or commencing on a date to be agreed upon by the parties for a term not to exceed 7 years, subject to the conditions described above.

In addition, the Senior Vice President – Clean Energy Solutions recommends that the Trustees accept the recommendation of EDPAB and approve the modifications to the extended allocations and/or supplemental commitments described in Exhibit ‘5a ii-B’ for the reasons discussed above.

The Senior Vice President – Clean Energy Solutions further recommends that the Trustees award the new allocations of RNY Power for retention purposes to the businesses listed in Exhibit ‘5a ii-C’ as indicated therein, and award the new allocations of RNY Power for the small business and/or not-for-profit applicants identified in Exhibit ‘5a ii-D’ for retention purposes as indicated therein.

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

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees hereby accept the recommendations of the Economic Development Power Allocation Board and approve the extension of each of the existing 10 Recharge New York (“RNY”) Power allocations (“Allocation” or collectively “Allocations”) previously awarded to the customers listed in Exhibit “5a ii-A” in the manner described in the accompanying report of the President and Chief Executive Officer (“Report”) for a term of 7 years, to commence on (1) the expiration of the term of the Allocation, or (2) in the Authority’s discretion, commencing on a date to be agreed upon by the Authority and the customer for a term not to exceed 7 years (collectively, the “Extended Term”), subject to the following conditions:

- (a) the sale of the Allocations as extended hereunder shall be made pursuant to the contract form approved by the Board on March 26, 2019, and Authority Service Tariff RNY-1**
- (b) in order to receive an extension of its Allocation, the customer agrees to provide the supplemental commitments for jobs, capital investment and power utilization that are the same or determined by the Authority to be substantially similar to those contained in Exhibit “5a ii-A” (subject to adjustments described above) for the Extended Term, through the incorporation of such supplemental commitments in the final contract that is executed by the parties, and RNY Power customers who do not have an ongoing project/expansion capital investment commitment shall meet a minimum capital investment commitment which may be satisfied through capital expenditures made over a five-year period.**

RESOLVED, That the Trustees hereby accept the recommendation of the Economic Development Power Allocation Board and approve the modifications/adjustments to the extended allocations and/or supplemental commitments described in Exhibit “5a ii-B” for the reasons indicated in the Report and Exhibit “5a ii-B”; and be it further

RESOLVED, That the Trustees hereby accept the recommendation of the Economic Development Power Allocation Board and approve the new RNY Power allocations for retention purposes to the applicants listed in Exhibit “5a ii-C” in the amounts indicated therein; and be it further

RESOLVED, That the Trustees hereby accept the recommendation of the Economic Development Power Allocation Board and approve the new RNY Power allocations for retention purposes to the small businesses and/or not-for-profit applicants listed in Exhibit “5a ii-D” in the amounts indicated therein; and be it further

RESOLVED, That the Chief Commercial Officer – Commercial Operations, or such official’s designee, hereby is authorized on behalf of the Authority to provide for final terms and conditions that will be applicable to the foregoing allocations and/or projects, including, without limitation, progress milestones and provisions for the expiration of any allocation in the event that such milestones are not met; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

iii. **Economic Development Programs –
Annual Compliance Deferral**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to authorize the Authority to defer annual compliance action for business customers enrolled in the (1) Recharge New York ('RNY'), (2) Expansion Power ('EP') and Replacement Power ('RP') (collectively, 'WNY Hydro'), and (3) Preservation Power ('PP') Programs (collectively, 'Economic Development Power Programs') for the annual compliance periods identified below.

BACKGROUND

Under the Authority's Economic Development Power ('EDP') Programs, competitively priced power is made available to for-profit and not-for-profit businesses in the State to, among other things, incentivize business development, business expansion, and job creation and retention.

The sale of NYPA power under the EDP Programs is sold to business customers pursuant to terms and conditions in a written contract between the Authority and the customer. In addition to the basic requirement to pay for energy products supplied, the Authority's contracts address 'supplemental commitments' made by customers relating to such matters as employment, capital investment, and/or power utilization. For example, with respect to jobs, the contract may contain supplemental commitments to create new jobs and/or retain jobs for a specified term. On capital investment, the contract may obligate the customer to make a minimum capital investment in its facilities on an annual basis or over another specified period of time. The nature of the commitment may vary depending on the circumstances, such as whether the customer is establishing a new business presence in New York State, expanding existing operations, or sustaining an ongoing business.

In accordance with the contract, customers are required to report to the Authority annually on employment, capital spending and energy usage ('Annual Report') covering a specified reporting or compliance period applicable to the specific EDP Program ('Compliance Period'). The annual Compliance Period for the RNY Power Program runs from July 1 to June 30. The annual Compliance Period for the WNY Hydro and PP Programs runs from January 1 to December 31. The Authority uses the data contained in the Annual Report to assess the customer's compliance with its Supplemental Commitments.

Each year staff presents the results of its compliance analysis for each EDP Program to the Trustees and makes recommendations on compliance action for customers whose compliance level fell below the required threshold (typically 90%) for the Compliance Period ('Annual Compliance Item'). Compliance action typically consists of a reduction in the amount the Customer's power allocation. In any Annual Compliance Item, staff may recommend no compliance action for some customers due to extenuating circumstances that affected the customer's ability to meet Supplemental Commitments.

DISCUSSION

This year, staff is poised to begin its annual compliance assessment which will culminate in recommended compliance action for non-compliant customers under (1) the RNY Power Program, for the annual Compliance Period running from July 1, 2018 to June 30, 2019 ('RNY 2018-19 Compliance Period'), and (2) the WNY Hydro and PP Power Programs for the annual Compliance Period running from January 1, 2019 to December 31, 2019 (collectively, 'Hydro 2019 Compliance Period').

Businesses across the State, including many customers in the EDP Programs, have been severely impacted by the COVID-19 pandemic. Many businesses State-wide have suffered significant

losses in business, increased operating costs, and supply chain difficulties, and have had to curtail operations, reduce, or eliminate capital spending and/or reduce employment levels.

Given these unprecedented circumstances, the Trustees, at their March 31, 2020 meeting, approved an Economic Development Customer Assistance Program ('EDCAP') consisting of the following two components:

- (1) The suspension of the Annual Adjustment Factor under applicable tariffs to energy and demand rates for customers in the Authority's Economic Development Power Programs, beginning with the adjustment that would have taken effect on July 1, 2020 for a period of one year from July 1, 2020 through June 30, 2021;
- (2) An option for customers to defer payment of energy bills to the Authority, beginning with the April 2020 invoice, for up to 6 months, with repayment of deferred amounts to occur in equal installments over the subsequent 18-month period.

Given the pendency of annual compliance review for the EDP Programs, staff is recommending that the Trustees approve a deferral of compliance action for (1) all RNY Power customers for RNY 2018-19 Compliance Period, and (2) all WNY Hydro and PP customers for the Hydro 2019 Compliance Period. Such deferral will be particularly valuable to those EDP Program customers whose employment, capital investment spending and energy usage levels have been negatively impacted by the pandemic, and who will likely face ongoing financial challenges for the foreseeable future.²

Deferral of annual compliance action is consistent with the purposes underlying the Authority's EDCAP initiative. In addition, deferral of compliance action has precedent. The Authority has exercised its discretion to defer annual compliance action on previous occasions when the State's businesses have faced severe financial distress. For example, annual compliance action was deferred:

- from 2001 through 2002 due to the events and impacts of the 9/11 attacks against the United States;
- from 2008 through 2010 due to the severe recession in the U.S.; and
- from 2012 through 2014 due to the impacts caused by Tropical Storm Irene and Superstorm Sandy.

FISCAL INFORMATION

Deferral of annual compliance action for the RNY 2018-19 Compliance Period and Hydro 2019 Compliance Period is not expected to have a significant impact on the Authority's finances.

RECOMMENDATION

The Senior Vice President – Clean Energy Solutions recommends that the Trustees approve a deferral of compliance action for: (1) all Recharge New York ('RNY') Power customers for the RNY 2018-19 Compliance Period; and (2) all Western New York ('WNY') Hydro Power and Preservation Power customers for the Hydro 2019 Compliance Period.

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

² Customers in the EDP Programs will still be required to file Annual Reports for the Compliance Periods. Information contained in the Annual Reports will enable the Authority to better understand customer circumstances over time and assist staff assessing compliance and related issues in subsequent Compliance Periods.

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the Trustees hereby authorize the deferral of annual compliance action for (i) business customers enrolled in the Recharge New York Power Program for the annual compliance period running from July 1, 2018 to June 30, 2019, and (ii) business customers enrolled in the Expansion Power, Replacement Power and Preservation Power Programs for the annual compliance period running from January 1, 2019 to December 31, 2019, for the reasons described in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

b. Procurement (Services) Contracts

**i. Procurement (Services) and Other Contracts –
Business Units and Facilities – Awards,
Extensions and/or Additional Funding**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to approve the award and funding of the multiyear procurement (services) contracts listed in Exhibit '5b i-A,' as well as the continuation and/or funding of the procurement (services) and other contracts listed in Exhibit '5b i-B,' in support of projects and programs for the Authority's Business Units/Departments and Facilities. Detailed explanations of the recommended awards and extensions, including the nature of such services, the basis for the new awards if other than to the lowest-priced, lowest total cost of ownership or 'best valued' bidders and the intended duration of such contracts, or the reasons for the extension and the projected expiration dates, are set forth in the discussion below.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year.

The Authority's current Expenditure Authorization Procedures ('EAPs') require the Trustees' approval for the award of non-personal services, construction, equipment purchase or non-procurement contracts in excess of \$6 million, as well as personal services contracts in excess of \$2 million if low bidder or best value, or \$1 million if sole-source, single-source or other non-competitive awards.

The Authority's current EAPs also require the Trustees' approval when the cumulative change order value of a personal services contract exceeds \$500,000, or when the cumulative change order value of a non-personal services, construction, equipment purchase, or non-procurement contract exceeds the greater of \$6 million or 25% of the originally approved contract amount not to exceed \$6 million.

DISCUSSION

Awards

The Trustees are requested to approve the award and funding of the multiyear procurement (services) contracts listed in Exhibit '5b i-A,' where the EAPs require approval based upon contract value or the terms of the contracts will be more than one year. Except as noted, all of these contracts contain provisions allowing the Authority to terminate the services for the Authority's convenience, without liability other than paying for acceptable services rendered to the effective date of termination. Approval is also requested for funding all contracts. Except as noted, these contract awards do not obligate the Authority to a specific level of personnel resources or expenditures.

The issuance of multiyear contracts is recommended from both cost and efficiency standpoints. In many cases, reduced prices can be negotiated for these long-term contracts. Since these services are typically required on a continuous basis, it is more efficient to award long-term contracts than to rebid these services annually.

Extensions

Although the firms identified in Exhibit '5b i-B' have provided effective services, the issues or projects requiring these services have not been resolved or completed and the need exists for continuing these contracts. The Trustees' approval is required because the terms of these contracts will exceed one year including the extension, the term of extension of these contracts will exceed one year and/or because the cumulative change-order limits will exceed the levels authorized by the EAPs in forthcoming change orders. The subject contracts contain provisions allowing the Authority to terminate the services at the Authority's convenience, without liability other than paying for acceptable services rendered to the effective date of termination. These contract extensions do not obligate the Authority to a specific level of personnel resources or expenditures.

Extension of the contracts identified in Exhibit '5b i-B' is requested for one or more of the following reasons: (1) additional time is required to complete the current contractual work scope or additional services related to the original work scope; (2) to accommodate an Authority or external regulatory agency schedule change that has delayed, reprioritized or otherwise suspended required services; (3) the original consultant is uniquely qualified to perform services and/or continue its presence and rebidding would not be practical or (4) the contractor provides proprietary technology or specialized equipment, at reasonable negotiated rates, that the Authority needs to continue until a permanent system is put in place.

The following is a detailed summary of each recommended contract award and extension.

Contract Awards in Support of Business Units/Departments and Facilities:

Commercial Operations – Market Analysis & Hedging

Due to the need to meet and maintain the Authority's project schedule, the proposed non-personal, sole-source contract with **Wah Sing NG dba NGPlanning LLC ('NGP') (4500319951)** for the support services in Electric Power Research Institute ('EPRI'), Electric Generation Expansion Analysis System ('EGEAS') and M&T application became effective on January 1, 2020 for the initial interim award amount of \$11,000, subject to the Trustees approval, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. The contract is for an intended term of three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the amount expected to be expended for the term of the contract, \$34,500. This award will lock in the pricing for the next three years with a savings of \$1,910 and will also streamline the renewal process for these services for future years for the term of this agreement.

Human Resources & Administration – Aviation

Due to the need to meet and maintain the Authority's project schedule, the proposed personal services contract with **FlightSafety International, Inc. ('FSI') (4500293942)** for the Reduced Vertical Separation Minimums ('RVSM') pilot training became effective March 16, 2020, for the initial interim award amount of \$50,000, subject to the Trustee's approval, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. Recurrent training is required annually by each of the pilots to meet the training requirements specified by the Authority's contracted insurance provider and the competency endorsements required by the Federal Aviation Association ('FAA'). Beyond the regulatory requirements, it is essential for the flight department personnel to promote a safe and reliable method of transportation for all of the Authority's employees. Bid documents were developed by staff and were accessible through the NYPA.gov site. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Two firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. One proposal was received electronically via Ariba and was evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of a contract to FSI which is technically and commercially qualified and meets the bid requirements on the basis of 'best value,' which optimizes quality, cost and efficiency among responsive and responsible offerors. The contracts are for an initial

term of five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the amount expected to be expended for the term of the contract, \$300,000

Information Technology – Critical Secure Services and CISO

Due to the need to meet and maintain the Authority's project schedule, the proposed non-personal services contract with **Radiant Resources, Inc. ('RRI') (4500319309)** would provide maintenance support for the Phantom Splunk software and Splunk User Behavior Analytics for Security Operations Suite became effective February 29, 2020, with an initial interim award amount of \$198,735, subject to the Trustee's approval, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. This contract is based on RRI's General Services Administration ('GSA') Schedule Number GS-35F-0119Y. This solution allows the Authority's cybersecurity team to automate tasks, orchestrate workflows and support a broad range of Security Operations Center ('SOC') functions including event and case management, collaboration, and reporting. Staff recommends the award of a contract to RRI through the GSA schedule, as they are technically and commercially qualified to provide the software tool, maintenance, training, and implementation services at the 'best value' to the Authority. The contract is for an intended term of three years, subject to the Trustees' approval, which is hereby requested. The three-year award results in a savings of \$39,921.85 or 6.07%. Approval is also requested for the amount expected to be expended for the term of the contract, \$617,891. This award would streamline the renewal process for these services for future years for the term of this agreement. It should also be noted that RRI is a NYS certified Women-owned Business Enterprise.

Information Technology – Data Services & Application Development

Due to the need to meet and maintain the Authority's project schedule, the proposed non-personal, sole-source contract with **LiveData Utility Solutions, Inc. ('LUS') (4500319874)** for providing maintenance support for the LiveData software became effective January 1, 2020, with an initial interim award amount of \$36,180, subject to the Trustee's approval, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. LUS is the sole provider of this proprietary software that is specific to the energy business. The maintenance services provided are telephone support, upgrades, and patches. These services are required to keep the Authority current with the latest releases of the software and maintain the required release levels that enable vendor support. The contract is for an intended term of three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the amount expected to be expended for the term of the contract, \$108,540. This award will lock in the current rate and will also streamline the renewal process for these services for future years for the term of this agreement.

Information Technology – NYISO Application

Due to the need to meet and maintain the Authority's project schedule, the proposed non-personal, single-source contract with **Gomez and Sullivan Engineers DPC ('GSE') (4400004939)** for hosting and providing two years of IT maintenance and support for the Canals Earthquake Warning System ('EWS') and the Canals Geographic Information System ('GIS') system became effective January 1, 2020, with an initial interim award amount of \$79,979, subject to the Trustees' approval, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. GSE's knowledge and experience of the systems at the Authority and Canals will provide EWS with continuity in hosting and maintenance support, bringing the EWS contract into alignment with the current GIS support contract. The contract is for an intended term of two years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the amount expected to be expended for the term of the contract, \$383,895.73.

Law – Contracts, Licensing & Environmental

Katten Muchin Rosenman LLP ('KMR') (4500306938) law firm provides legal representation to the Authority in connection with the restructuring of the energy efficiency project financing program. A new lending structure for local governments and other customers is necessary as the Authority has about reached its maximum lending capacity under the current lending program. Currently, the Authority

finances energy efficiency projects using a commercial paper financing program which has a stated maximum amount of \$700 million. A substantial portion of that capacity has been used on energy efficiency projects and the Authority wants to grow the program. Accordingly, there is a need for a new lending structure. The new program has taken longer than anticipated to implement, caused in part by the changing of Authority personnel. The law firm has supported the Authority over the past year and its services are required to successfully complete this initiative. The single-source contract became effective on January 14, 2019, for a term of one year with an approved amount of \$75,000. On December 19, 2019, the Trustees approved an extension of the contract for one-year, through January 13, 2021, and received approval to add more funding in the amount of \$200,000 including interim funding of \$100,000. The Trustees are requested to approve additional funding to KMR in the amount of \$400,000. The total contract value of \$675,000. This increase in funding is being sought to continue with pending legal services.

Utility Operations – Asset Information

Due to the need to meet and maintain the Authority's project schedule, the proposed non-personal, sole-source contract with **Software Sense Enterprise, Inc. ('SSE') (4500319949)** for providing maintenance and technical support for the Maximo-PTR-PLUS! Interface and ECC-PTR-PLUS! Interface became effective March 1, 2020, with an initial interim award amount of \$18,735, subject to the Trustees' approval, in accordance with the Authority's Guidelines for Procurement Contracts and EAPs. The PTR-PLUS software application is for the purpose of coordinating and issuing operation clearance and the application has become essential to the conduct of maintenance of the Authority's power plants. The maintenance will provide updates, upgrades, and technical support. The contract is for an intended term of five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the amount expected to be expended for the term of the contract, \$300,000. This award would streamline the renewal process for these services for future years for the term of this agreement.

Utility Operations – Facility Management

The proposed non-personal services contracts with **EME Consulting Engineering LLC ('EME')**, **Ensign Engineering PC ('Ensign')** and **Fellenzer Engineering LLP ('Fellenzer') (Q19-6828JM)** would provide Mechanical, Electrical and Plumbing ('MEP') engineering services for the Clarence D. Rappleyea (Centroplex) building in White Plains. The Authority requires on-going access to MEP Engineering firms in order to support construction and one-off projects. MEP firms analyze and evaluate building systems and devise systems that best integrate with a building's architecture and desired performance. Bid documents were developed by staff and were accessible through the NYPA.gov site. The Request for Quotations was advertised on the New York State *Contract Reporter* website and posted on the Procurement page of the Authority's website. Six firms/entities were listed as having been invited to, or requested to participate in, the Ariba event. Fourteen proposals were received electronically via Ariba and were evaluated, as further set forth in the Award Recommendation documents. Staff recommends the award of contracts to EME, Ensign and Fellenzer which are technically and commercially qualified and meet the bid requirements on the basis of 'best value,' which optimizes quality, cost and efficiency among responsive and responsible offerors. These contracts are for an intended term of five years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the aggregate amount expected to be expended for the term of the contract, \$750,000. It should also be noted that Ensign is a NYS certified Women-owned Business Enterprise.

Utility Operations – Facility Management

The proposed non-personal, sole-source contract with **Miller Proctor Nickolas, Inc. ('MPN') (4500320041)**, would provide a boiler inspection and service agreement at the Clarence D. Rappleyea (Centroplex) Building in White Plains. The building is equipped with two, 125-horsepower low-pressure dual-fuel (gas and #2 oil) steam boilers, manufactured by Cleaver Brooks, Inc. ('Cleaver Brooks'). The boilers and controllers were modernized in 2018. The mechanical parts, computer hardware and software required to operate the upgraded boiler control system and communicate with the WPO's computerized Building Management System are proprietary to Cleaver Brooks and are only accessible to

authorized Cleaver Brooks vendors. MPN is the sole authorized sales and service provider for Cleaver Brooks boilers and equipment in the White Plains and surrounding areas. The contract is for an intended term of three years, subject to the Trustees' approval, which is hereby requested. Approval is also requested for the amount expected to be expended for the term of the contract, \$250,000.

Extensions and/or Additional Funding Requests:

Commercial Operations – Project & Deal Structuring

On May 17, 2019, the Authority issued a one-year construction services contract to **Threetech Electric, Inc. ('Threetech') (4500309264)** in the amount of \$98,905 for the upgrade of lighting equipment at the Jamaica Health Center. Due to the customer delaying the start of work, an extension of the original contract term is required. This contract extension is requested to accommodate the lighting installations at the Jamaica Health Center. Staff requests the Trustees' approval for the extension of the Threetech contract for one year, including interim approval for the period May 16, 2020 through May 19, 2020, with an updated end date of May 16, 2021 to provide continuation of construction services. No additional funding is requested. It should be noted that Threetech is a NYS certified Minority-owned Business Enterprise.

Commercial Operations – Project & Deal Structuring

On May 16, 2019, the Authority issued a one-year construction services contract to **Threetech Electric, Inc. ('Threetech') (4500309259)** in the amount of \$83,620 for the upgrade of lighting equipment at the Bushwick Health Center. Due to the customer delaying the start of work, an extension of the original contract term is required. This contract extension is requested to accommodate the lighting installations at the Bushwick Health Center. Staff requests Trustee approval for the extension of the Threetech contract for one year, including interim approval for the period May 15, 2020 through May 19, 2020, with an updated end date of through May 15, 2021 to provide continuation of construction services. No additional funding is requested. It should be noted that Threetech is a NYS certified Minority-owned Business Enterprise.

Utility Operations – Infrastructure Project Management

On June 29, 2017, the Authority issued a one-year construction services contract to **Dean Energy Solutions Corporation ('DES') (4500287027)** in the amount of \$4,817,114 for construction services for the existing Fuel Oil Yard Foam Fire Suppression System at the Authority's 500MW Power Plant (Zeltmann). At the March 20, 2018 Trustees' meeting, this contract was extended for one additional year to June 28, 2019. This contract was further extended into a grace period through May 31, 2020. DES furnished and installed the new pump house building, emergency diesel generator, most of the piping (which will be replaced) and other equipment, however, it has not been commissioned or accepted to date. Additional construction expenditures are required to properly execute and build the code compliant system. This contract extension is requested to provide the continuation of work for the Fuel Oil Yard Foam Fire Suppression System Project. Staff requests the Trustees' approval for the extension of the DES contract for an additional two years, through May 31, 2022, to provide continuation of construction services. No additional funding is requested.

Utility Operations – Infrastructure Project Management

On April 8, 2019, the Authority issued a one-year personal services contract to **O'Brien & Gere Engineers, Inc. ('OGE') (4500307965)** in the amount of \$1,059,802.95 to provide engineering and management support for the evaluation of the White Plains Office ('WPO') electrical infrastructure and system studies. The WPO electric service is a three-phase system consisting of both medium-voltage and low-voltage equipment required for various functions, including normal power, emergency generators, and uninterruptible power supply. The WPO floors have been modified over the lifespan of the building (35+ years) by both the Authority and various tenants, the Authority now occupies over 95%

of the building. Due to unforeseen site conditions and added difficulty in tracing certain circuits and additional circuits that were not part of the scope-of-work, additional time is needed to complete the project. Also, due to the COVID-19 pandemic, access to the WPO building was restricted which added additional delays to the project. Staff requests the Trustees' approval for the extension of the OGE contract for an additional two-year term, including interim approval for the period April 8, 2020 thru May 19, 2020, with an updated end date of April 7, 2022. No additional funding is being requested at this time.

Utility Operations – Project Management – Central NY

On April 26, 2018, the Authority issued a one-year construction contract to **Minimax Fire Solutions, Inc. ('MFS') (4500296984)** in the amount of \$340,733 to provide the installation of a new deluge suppression system for fire protection for the dual voltage generator step-up transformer at RM Unit 13 during the June 2018 outage. A Change Order was approved in August 2018 in the amount of \$79,228. All work was completed on schedule prior to the end of the outage. During the commissioning test, it was determined that the water supply did not meet the required flow and pressure and the system does not comply with the applicable NFPA code. Corrective work is required during the next Unit #13 planned outage scheduled for March 2020. The Trustees' approval was granted to extend the MFS contract through April 25, 2020 at the March 26, 2019 meeting. Another Change Order was also approved in October 2019 in the amount of \$220,155.05. Due to the COVID-19 pandemic, MFS was directed to stand down from the scheduled work. Staff requests the Trustees' approval for the extension of the MFS contract for an additional 18-month term, including interim approval for the period April 25, 2020 through May 19, 2020, with an updated end date of October 25, 2021. No additional funding is being requested at this time.

FISCAL INFORMATION

Funds required to support contract services for various Business Units/Departments and Facilities have been included in the 2019 Approved Operating or Capital Budget. Funds for subsequent years, where applicable, will be included in the budget submittals for those years. Payment will be made from the Operating or Capital Fund, as applicable.

Funds required to support contract services for capital projects have been included as part of the approved capital expenditures for those projects and will be disbursed from the Capital Fund in accordance with the project's Capital Expenditure Authorization Request, as applicable.

RECOMMENDATION

The Senior Vice President – Operations Support Services and Chief Engineer; the Senior Vice President – Clean Energy Solutions; the Vice President – Engineering & Construction Management; the Vice President – Project Management; the Vice President – Enterprise Shared Services; the Vice President – Energy Resource Management; the Vice President – Critical Secure Services and CISO; the Senior Director – Product Development and Data Integration; the Regional Manager of SENY; and the Assistant General Counsel recommend that the Trustees approve the award of multiyear procurement (services) and other contracts to the companies listed in Exhibit '5b i-A' and the extension and/or funding of the procurement (services) contracts listed in Exhibit '5b i-B,' for the purposes and in the amounts discussed within the item and/or listed in the respective exhibits.

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

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the award and

funding of the multiyear procurement services contracts set forth in Exhibit "5b i-A," attached hereto, are hereby approved for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority, the contracts listed in Exhibit "5b i-B," attached hereto, are hereby approved and extended for the period of time indicated, in the amounts and for the purposes listed therein, as recommended in the foregoing report of the President and Chief Executive Officer; and be it further

RESOLVED, That the Chairman, the Vice-Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

ii. **Advancing Analytics – Authorization to Award Master Services Agreement Contracts for the Digital Transformation Office**

The President and Chief Executive Officer submitted the following report:

“SUMMARY

The Trustees’ approval/concurrence is requested to award five-year personal services contracts for Advancing Analytics for the Digital Transformation Office in the aggregate, not-to-exceed amount of seven million dollars to twenty qualified firms: (1) Accenture Consulting of New York, NY; (2) Carahsoft Technology Corp. of Reston, VA; (3) CGI Technologies and Solutions Inc. of Fairfax, VA; (4) Datch Systems Ltd. of San Francisco, CA; (5) Digital Engineering Ltd. of Bristol, AK; (6) EA Technology LLC of Denville, NJ; (7) Elder Research, Inc. of Charlottesville, VA; (8) Element Analytics, Inc. of San Francisco, CA; (9) Experis IT of New York, NY; (10) Foghorn Systems of Sunnyvale, CA; (11) GP Strategies Corporation of Columbia, MD; (12) IBM Corporation of Albany, NY; (13) Intellastar LLC of Williamsville, NY; (14) mPrest Systems Ltd. of Cicero, NY; (15) Protek Information Technology Services, LLC of Valley Cottage, NY; (16) Siemens AG of Raleigh, NC; (17) SoftServe, Inc. of Fort Myers, FL; (18) Tata Consultancy Services Ltd. of Edison, NJ; (19) TRC Companies of Liverpool, NY; and (20) UTC Associates, Inc. of New York, NY.

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority’s Guidelines for Procurement Contracts require the Trustees’ approval for procurement contracts involving services to be rendered for a period in excess of one year. Additionally, in accordance with the Authority’s Expenditure Authorization Procedures, the award of personal services contracts exceeding \$2 million requires the Trustees’ approval.

In order to support NYPA’s journey to become the nation’s first end-to-end digital utility, the Authority seeks to leverage advanced analytics to turn vast amounts of asset and business data into useful information that allows it to improve asset utilization, help customers achieve greater efficiency and aid decision-making within the organization.

On October 7, 2019, the Authority issued a Request for Proposal (‘RFP’) to prequalify firms that could co-create apps and enhance the Authority’s analytics capabilities. The scope of services outlined in the RFP encompasses a wide range of capabilities including:

- Reliability Centered Maintenance (RCM)
- Asset Performance Management (APM):
 - Asset Criticality Analysis
 - Failure Modes and Effects Analysis
 - Life Cycle Cost Analysis
 - Asset Strategy Management
 - Intelligent Automation
 - Artificial Intelligence (AI):
 - i. Machine Learning/ Auto Machine Learning (ML)
 - ii. Advanced Pattern Recognition
 - iii. Natural Language Processing (NLP)
- iv. Computer Vision
- v. Supervised Learning capabilities
- vi. Unsupervised Learning capabilities
- vii. Reinforcement Learning
- Acoustics / Image processing capabilities
- Edge Processing
- UI/UX development
- Application Programming Interface (API) development
- IoT / IIoT Connectivity
- Integrating specialized data sets

DISCUSSION

In response to the Authority's RFP advertised in the New York State *Contract Reporter* on October 7, 2019 (RFQ Q19-6808CL), forty-one proposals were received on December 11, 2019 from the following firms:

1. ABB Inc.
2. Accenture Consulting
3. C3
4. CGI Technologies and Solutions Inc.
5. Carahsoft Technology Corp
6. Cognizant (formerly Sourcenet)
7. Datch Inc.
8. Deloitte Consulting LLP
9. Digital Engineering Ltd
10. Doddi Information technologies, Inc
11. EA Technology, LLC
12. Elder Research, Inc.
13. Element Analytics, Inc.
14. Engement Company, Inc.
15. Ernst & Young, LLP
16. Experis US Inc.
17. Foghorn Systems, Inc.
18. GE Grid Solutions, LLC
19. GP Strategies
20. Globe North, LLC
21. Google, LLC
22. HTC Global Services, Inc.
23. International Business Machines Corporation
24. Intellastar US LLC
25. Kisters North America
26. mPrest, Inc.
27. PA Consulting Group, Inc.
28. Protek
29. SAP Industries
30. SAS Institute, Inc.
31. Sapere Consulting, Inc.
32. Scanify
33. Siemens Industry, Inc.
34. SoftServe, Inc.
35. Tata America International Corporation
36. TRAX, LLC
37. TRC Engineers, Inc.
38. Trove Predictive Data Science, LLC
39. Uptake Technologies, Inc.
40. UTC Associates, Inc.
41. Utegration LLC

The Evaluation Committee consisting of representatives from Utility Operations, Commercial Operations, Business Services, Information Technology, Human Resources and Administration, Strategic Supply Management and the Digital Transformation Office, reviewed each proposal, taking into consideration several criteria including, but not limited to the following:

- a) Competency: Vendors must identify one or more of the listed capabilities and demonstrate an ability to develop and deploy them at NYPA
- b) Financial stability: Companies must have active paying customers and be financially stable
- c) Strategic alignment: Companies have strategic alignment in their long-term R&D and market development plans, and in the ongoing needs of electric utilities
- d) Compatibility: Solutions are compatible with ISO 55001
- e) Domain expertise: The company and individuals at the company have significant domain expertise in the power sector
- f) Track record: Vendors can demonstrate they have successfully deployed the solutions they propose delivering to NYPA to other enterprise customers
- g) Response: The vendor response is clear, articulate, and accurate.

The Authority will seek to achieve or exceed M/WBE and related goals for the scope-of-work that will be assigned after value contracts are awarded.

The Evaluation Committee recommends the following firms, which exhibit the qualifications that would make them suited to assist the Authority in the development and expansion of its current application portfolio, to actively manage generation and transmission infrastructure by improving system efficiency, asset utilization and productivity, perform proactive energy management, optimize asset performance management and financial management, and orchestrate flexible power ecosystem using analytics capabilities, as well as previously identified customer-centric and internal process efficiency use cases to:

1. Accenture LLP
2. Carahsoft Technology Corp.
3. CGI Technologies and Solutions Inc.
4. Datch Inc
5. Digital Engineering Ltd.
6. EA Technology, LLC
7. Elder Research, Inc.
8. Element Analytics, Inc.
9. Experis US Inc.
10. Foghorn Systems, Inc.
11. GP Strategies Corporation
12. International Business Machines Corporation
13. Intellastar US LLC
14. mPrest Inc
15. Protek Information Technology Services, LLC
16. Siemens Industry, Inc.
17. SoftServe, Inc.
18. Tata America International Corporation
19. TRC Engineers, Inc.
20. UTC Associates, Inc.

After thorough evaluations of each proposal followed by multiple vendor capability presentations, the remaining twenty-one proposals fell short of the predetermined criteria and, therefore, are not being recommended for a contract award.

FISCAL INFORMATION

Services under these contracts will be provided on an “as-needed” basis and/or availability, using the hourly rates. Payments associated with this project will be made from the Authority’s Capital or Operations Fund, as appropriate.

RECOMMENDATION

Based on the foregoing, the Evaluation Committee requests the Trustees’ concurrence/approval to award five-year personal services contracts for Advancing Analytics for the Digital Transformation Office in the aggregate, not-to-exceed amount of seven million dollars to twenty qualified firms: (1) Accenture Consulting of New York, NY; (2) Carahsoft Technology Corp. of Reston, VA; (3) CGI Technologies and Solutions Inc. of Fairfax, VA; (4) Datch Inc of San Francisco, CA; (5) Digital Engineering Ltd. of Bristol, UK; (6) EA Technology, LLC of Denville, NJ; (7) Elder Research, Inc. of Charlottesville, VA; (8) Element Analytics, Inc. of San Francisco, CA; (9) Experis US Inc. of New York, NY; (10) Foghorn Systems, Inc. of Sunnyvale, CA; (11) GP Strategies Corporation of Columbia, MD; (12) International Business Machines Corporation of Armonk, NY; (13) Intellastar LLC of Williamsville, NY; (14) mPrest Inc of Wilmington, DE; (15) Protek Information Technology Services, LLC of Valley Cottage, NY; (16) Siemens Industry, Inc. of Minnetonka, MN; (17) SoftServe, Inc. of Fort Myers, FL; (18) Tata America International Corporation of New York, NY; (19) TRC Engineers, Inc of Windsor, CT; and (20) UTC Associates, Inc. of New York, NY.

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

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Guidelines for Procurement Contracts adopted by the Authority and the Authority’s Expenditure Authorization Procedures, approval is hereby granted to award five-year contracts in the aggregate, not-to-exceed amount of seven million dollars to: (1) Accenture Consulting of New York, NY; (2) Carahsoft Technology Corp. of Reston, VA; (3) CGI Technologies and Solutions Inc. of Fairfax, VA; (4) Datch Inc of San Francisco, CA; (5) Digital Engineering Ltd. of Bristol, UK; (6) EA Technology, LLC of Denville, NJ; (7) Elder Research, Inc. of Charlottesville, VA; (8) Element Analytics, Inc. of San Francisco, CA; (9) Experis US Inc. of New York, NY; (10) Foghorn Systems, Inc. of Sunnyvale, CA; (11) GP Strategies Corporation of Columbia, MD; (12) International Business Machines Corporation of Armonk, NY; (13) Intellastar LLC of Williamsville, NY; (14) mPrest Inc of Wilmington, DE; (15) Protek Information Technology Services, LLC of Valley Cottage, NY; (16) Siemens Industry, Inc. of Minnetonka, MN; (17) SoftServe, Inc. of Fort Myers, FL; (18) Tata America International Corporation of New York, NY; (19) TRC Engineers, Inc of Windsor, CT; and (20) UTC Associates, Inc. of New York, NY as recommended in the foregoing report of the President and Chief Executive Officer;

| <u>Contractor</u> | <u>Location</u> | <u>\$7 million</u> (aggregate) |
|--|---------------------|-----------------------------------|
| Accenture Consulting | New York, NY | |
| Carahsoft Technology Corp. | Reston, VA | |
| CGI Technologies and Solutions Inc. | Fairfax, VA | |
| Datch Inc. | San Francisco, CA | |
| Digital Engineering Ltd. | Bristol, UK | |
| EA Technology, LLC | Denville, NJ | |
| Elder Research, Inc. | Charlottesville, VA | |
| Element Analytics, Inc. | San Francisco, CA | |
| Experis US Inc. | New York, NY | |
| Foghorn Systems, Inc. | Sunnyvale, CA | |
| GP Strategies Corporation | Columbia, MD | |
| International Business Machines Corporation | Armonk, NY | |
| Intellastar US LLC | Williamsville, NY | |
| mPrest Inc. | Wilmington, DE | |
| Protek Information Technology Services, LLC | Valley Cottage, NY | |
| Siemens Industry, Inc. | Minnetonka, MN | |
| SoftServe, Inc. | Fort Myers, FL | |
| Tata America International Corporation | New York, NY | |
| TRC Engineers, Inc. | Windsor, CT | |
| UTC Associates, Inc. | New York, NY | |

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

c. Utility Operations

**i. Smart Generation & Transmission Strategic Initiative –
Communications Background Program Contract
Award and Lease Agreement**

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Trustees are requested to approve a single-source contract in the amount of \$11,103,524 for a term of 20 years to the New York State Thruway Authority ('NYSTA') in Albany, NY to connect and lease approximately 440 miles of dark fiber optic cable for the Communications Backbone Program ('Program').

BACKGROUND

Section 2879 of the Public Authorities Law and the Authority's Guidelines for Procurement Contracts require the Trustees' approval for procurement contracts involving services to be rendered for a period in excess of one year. Additionally, in accordance with the Authority's Expenditure Authorization Procedures, the award of non-personal services contracts exceeding \$6 million requires the Trustees' approval.

The Program is a foundational element of the Authority's Smart Generation & Transmission ('Smart G&T') Strategic Initiative. The goal of the Program is to establish a dedicated, redundant communications network that builds on the Authority's existing infrastructure and is integrated into the long-term asset strategy while leveraging available infrastructure from independent dark fiber service providers to reduce dependency on commercial telecommunication providers.

Through this contract, the Authority will lease approximately 440 miles of dark fiber optic cable from the NYSTA to facilitate the communications between Niagara, Utica (Marcy), Albany (New Scotland Substation) and White Plains.

At their December 11, 2019 meeting, the Trustees approved additional capital expenditures in the amount of approximately \$53 million for the Communications Backbone Program, bringing the total authorized amount, to date, to approximately \$153 million. This lease of dark fiber optic cable will be completed within the approved capital expenditure authorization.

The 20-year lease for the dark fiber optic cable will be contingent upon NYSTA obtaining the New York State Comptroller's approval for this contract which is anticipated by fall 2020.

DISCUSSION

The Authority considered a number of options to deploy a dedicated communications backbone program and elected to proceed with a hybrid solution which includes the installation of Optical Ground Wire ('OPGW'), leased dark fiber and microwave systems. Though each approach would address NYPA's most basic needs, analysis by third-party vendors and the Authority concluded that this solution is the most viable given costs, resources, and risk constraints. The hybrid solution provides the Authority with the capacity for current and future needs and functions with systems already in place.

While assessing options to complete the communications path between Niagara and White Plains, the Authority identified NYSTA as a sole proprietor of fiber optic cable early in 2018. Negotiations continued in 2019 with NYSTA requesting an amendment to the New York State Public Authorities Law (TA-01-19) authorizing leased fiber agreements by NYSTA. Further discussions continued during comprehensive weekly meetings to develop the scope and specifications for the contract.

The lease agreement and cost structure have been reviewed by Estimating, Legal, Strategic Supply Management, Risk and Project Management teams. The anticipated lease start date is in 2020 and maintenance will be provided by NYSTA's maintenance sub-contractor, based on the following cost table:

| <u>Lease and Construction</u> | <u>Total</u> |
|--|--------------|
| Total Indefeasible Right of Use (IRU) Fee | \$ 961,369 |
| Total Maintenance Fee (Recurring Cost) | \$ 8,877,369 |
| Fiber Characterization Testing Fee | \$ 35,000 |
| Power Cost (Recurring Cost) | \$ 185,378 |
| Collocation Space Fee (Non-Recurring Cost) | \$ 300,000 |
| Collocation Space Fee (Recurring Cost) | \$ 558,306 |
| ILA Lateral Fees at Exit 31 and Exit 23 (Recurring Cost) | \$ 186,102 |
| Total Cost | \$11,103,524 |

*Total Cost does not include cost for Extraordinary Repair Expenses which may be incurred in the future and subject to NYPA approval.

The scope-of-work includes Fiber Optic Characterization Testing to verify the integrity of the entire fiber link. Authority staff also performed site visits to define cage space requirements and build-out logistics for installation of Authority-owned fiber electronic equipment. Additionally, power connections and cage/rack space for mounting Authority fiber electronic equipment at various locations along the Thruway will be prepared by NYSTA. Once this work is completed, the Authority's Contractor, Lightspeed/Nokia, will install, test, and verify the fiber integrity of the entire route. Upon the Authority's acceptance and transmission of data from the path from Niagara to the White Plains, the IRU Lease agreement for a 20-year term will be initiated along with annual maintenance and collocation fees.

FISCAL INFORMATION

The recurring costs identified in the table above, representing maintenance-related payments and fees of \$9,621,053, in the aggregate, for the 20-year lease agreement, will be paid from the Authority's Operating Fund. The other payments and fees of \$1,482,471, in the aggregate, will be made from the Authority's Capital Fund.

RECOMMENDATION

The Senior Vice President and Chief Engineer – Operations Support Services, the Vice President – Strategic Supply Management, the Vice President – Project Management, and the Program Director recommend that the Trustees approve a single-source contract in the amount of \$11,103,524 for a term of 20 years to the New York State Thruway Authority in Albany, NY to connect and lease approximately 440 miles of dark fiber optic cable for the Communications Backbone Program.

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

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, that pursuant to the Guidelines for Procurement Contracts adopted by the Authority and the Authority's Expenditure Authorization Procedures, approval is hereby granted for a single-source contract award for the Smart

Generation & Transmission Communication Backbone Program in the amount of \$11,103,524 to the New York State Thruway Authority as recommended in the foregoing report of the President and Chief Executive Officer;

| <u>Contractor</u> | <u>Amount</u> |
|--|----------------------|
| New York State Thruway Authority Albany, NY | \$11,103,524 |

RESOLVED, That the Authority shall use Capital Funds, which are intended to include proceeds of debt issuances to reimburse (in accordance with the applicable provisions of section 1.150-2 of the Treasury Regulations) revenues applied on an interim basis in anticipation of a bond issue for capitalized or capitalizable costs, to fund up to \$9,621,053 of the costs associated with the aforementioned contract; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

d. Real Estate

i. Niagara Power Project – Extension of Lease for Warehouse Space – DRC Development, LLC

The President and Chief Executive Officer submitted the following report:

“SUMMARY

The Trustees are requested to authorize the execution of a lease with DRC Development, LLC ('Landlord') for off-site warehouse space located at 6420 Inducon Drive, Sanborn, New York. This warehouse space will be used in support of the Life Extension and Modernization ('LEM') Program for the Lewiston Pump Generating Plant ('LPGP') and the LEM Program for the Next Generation Niagara ('NGN') Project. The proposed lease would be for a term of ten years commencing July 1, 2020 and terminating on June 30, 2030 for a leased space of 15,000 square-feet.

BACKGROUND

The Authority has leased warehouse space at 6420 Inducon Drive since July 1, 2012. The current term expires on June 30, 2020, and regional staff has requested that the term be extended for an additional ten (10) years. The warehouse currently supports the LPGP LEM Program, which is expected to continue through July of 2021. Thereafter, the space will be utilized to store equipment and materials in support of NGN LEM, which is expected to continue through 2032. Project staff advises that there is no room onsite for this equipment. The electric components installed in some of the equipment require storage in a heat and humidity-controlled environment in order to maintain the manufacturer's warranty. Extreme temperature and humidity levels can cause serious damage to very costly equipment. The Real Estate division researched various alternatives proximate to Niagara and found no other sites which met the site criteria, including climate-controlled space and a dedicated loading dock.

DISCUSSION

The proposed new term is ten years at a flat annual rate of \$108,750.00 which is the same rate currently being paid for the space. In addition, the Authority will be responsible for a pro rata share of operating expenses and taxes as well as utilities.

The Authority's Expenditure Authorization Procedures governing real estate require the Trustees' approval for the acquisition of lease interests in real property where the total term, including all renewal options, exceeds ten (10) years or the annual rent exceeds \$100,000.00.

FISCAL INFORMATION

Funds required for the lease extension will come from the Authority's Capital Fund.

RECOMMENDATION

The Vice President – Enterprise Shared Services recommends that the Trustees approve the execution of a lease for a term of ten years with DRC Development, LLC for off-site warehouse space in support of the Life Extension and Modernization ('LEM') Program for the Lewiston Pump Generating Plant and the LEM Program for the Next Generation Niagara Project.

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

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That the President and Chief Executive Officer and the Vice President – Enterprise Shared Services be, and hereby are, authorized to enter into a ten-year lease on substantially the terms set forth herein, of warehouse space in Sanborn, NY, in support of the Life Extension and Modernization (“LEM”) Program for the Lewiston Pump Generating Plant and the LEM Program for the Next Generation Niagara Project, subject to approval of lease documents by the Executive Vice President and General Counsel or his designee; and be it further

RESOLVED, That the Vice President – Enterprise Shared Services, or designee, is hereby authorized to execute any and all other agreements, papers or instruments on behalf of the Authority that may be deemed necessary or desirable to carry out the foregoing, subject to the approval by the Executive Vice President and General Counsel; and be it further

RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer and all other officers of the Authority are, and each of them hereby is, authorized on behalf of the Authority to do any and all things and take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

e. Canal Corporation

i. Procurement (Services) Contract – Canal Inland Tug Vessel Design – Contract Award

The President and Chief Executive Officer submitted the following report:

SUMMARY

The Board of Directors ('Board') is requested to approve the award of a competitively bid 5-year contract related to Inquiry No. K20-10296414CC to Bristol Harbor Group, Inc. of Bristol, RI, the lowest responsive and responsible competitive bidder, to design three new inland tugs and provide fabrication support services for each tug for the Canal Inland Tug Vessel Design, in the bid amount of \$510,160.00 for a duration of five years. Engineering services are expected to begin on May 19, 2020 and conclude by the contract completion date of May 18, 2025.

In accordance with the New York State Canal Corporation's ('NYSCC's') Procurement Guidelines and Expenditure Authorization Procedures ('EAPs'), the Board's approval is required when the award of service contracts and/or purchase order releases exceeds one year in term.

BACKGROUND

On July 20, 2016, the United States Coast Guard regulations 46 CFR Subchapter M was officially adopted. Specifically, Subchapter M requires towing vessels 26 feet or greater in length to obtain a certificate of inspection which verifies that the vessel complies with the regulations. The Authority and Canal Corporation have been working closely with the Coast Guard to obtain the necessary certificates of inspection for towing vessels in order to comply with the new regulations.

The Canal Corporation owns and has been operating 10 tugs which were originally built from 1926 to 1952 and are nearing, or have reached, the end of their useful lives. To date, seven (7) of the tugs have been taken out of service due to severe corrosion of structural members and thinning of the hulls. Recent measurements have verified that the hulls thicknesses are significantly less than the limits allowed by Coast Guard regulation. The hulls have either experienced leaks or pose a potential risk to the environment because the fuel tanks and/or sewage tanks are integral to the hull construction, or both. Repairs to these vessels would require that the entire vessel hulls, framing, equipment, and electrical systems be modified or replaced to bring them up to today's standards. The costs of replacing hulls, structural members, and equipment of these 68 to 94-year-old vessels cannot be economically justified, and, therefore, a plan to replace the larger tugs is recommended. Over the last two years, the Canal Corporation has procured smaller sub-25 ft. push-boats and obtained the tug Joncaire from the Authority to perform some of the towing responsibilities. However, replacing the larger tugs is necessary for the Canal Corporation to continue its mission of maintaining the navigation channels within the NYS Canal System.

Award of this contract will provide the design and construction support of 3 new tugs. The design will be completed in 2020, with fabrication support to follow from 2021 through 2024. The proposed construction budgets for the 3 tugs will follow as a separate project following the design and estimated costs of fabrication realized through this effort.

DISCUSSION

In response to an advertisement issued on January 30, 2020, for the Canal Inland Tug Vessel Design, Inquiry No. K20-10296414CC, six (6) proposals (bids) were received and publicly opened and read on March 6, 2020. The bids were reviewed by the Evaluation Committee and the New York Power Authority's Strategic Supply Management staff. Bristol Harbor Group, Inc. was deemed by the committee to be the lowest responsible bidder.

FISCAL INFORMATION

All associated expenditures will be paid from the Canal Corporation and/or capital fund, as appropriate.

RECOMMENDATION

Based on the evaluation, the Marine Infrastructure Manager and the Deputy Director of Canal Corporation (on behalf of the Evaluation team) recommend that the personal service contract related to Inquiry No. K20-10296414CC for the Canal Inland Tug Vessel Design be awarded to Bristol Harbor Group, Inc. of Bristol, RI, effective May 19, 2020, in the amount of \$510,160 for a term of up to five years.

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

The following resolution, as submitted by the President and Chief Executive Officer, was unanimously adopted.

RESOLVED, That pursuant to the Canal Corporation’s Procurement Guidelines and Expenditure Authorization Procedures, approval is hereby granted to award a five-year engineering services Contract, starting May 19, 2020, for the total of \$510,160.00, to Bristol Harbor Group, Inc. for the Canal Inland Tug Vessel Design, as recommended in the foregoing report of the President and Chief Executive Officer;

| <u>Contractor</u> | <u>Location</u> | <u>Contract Award</u> |
|----------------------------|-----------------|-----------------------|
| Bristol Harbor Group, Inc. | Bristol, RI | <u>\$510,160.00</u> |

K20-10296414CC

AND BE IT FURTHER RESOLVED, That the Chairman, the Vice Chairman, the President and Chief Executive Officer, the Chief Operating Officer, and all other officers of the Canal Corporation are, and each of them hereby is, authorized on behalf of the Canal Corporation to do any and all things, take any and all actions and execute and deliver any and all agreements, certificates and other documents to effectuate the foregoing resolution, subject to the approval of the form thereof by the Executive Vice President and General Counsel.

f. Governance Matters

**i. Minutes of the Joint Annual Meeting of the
New York Power Authority's Trustees and
Canal Corporation's Board of Directors
held on March 31, 2020**

The Minutes of the Joint Annual Meeting of the New York Power Authority's Trustees and Canal Corporation's Board of Directors held on March 31, 2020 were unanimously adopted.

6. Next Meeting

The regular joint meeting of the New York Power Authority's Trustees and the Canal Corporation's Board of Directors will be held on July 28, 2020, unless otherwise designated by the Chairman with the concurrence of the Trustees.

Closing

On motion made by member Michael Balboni and seconded by member Dennis Trainor, the meeting was adjourned at approximately 11:58 a.m.

Karen Delince

Karen Delince
Corporate Secretary

POWER AUTHORITY OF THE STATE OF NEW YORK
AND
NEW YORK STATE CANAL CORPORATION

EXHIBITS

For

May 19, 2020

Joint Regular

Meeting Minutes



**NY Power
Authority**

**Canal
Corporation**

Exhibit 4a i - A ; 4a i 1-A through 4a i 4-A
May 19, 2020

President & CEO COVID-19 Progress Report

Gil Quiniones

President & Chief Executive Officer

May 19, 2020

COVID19 Preparation & Response

- Protected the health and safety of our employees, partners and communities
 - Established COVID-19 task force in January 2020
 - Refreshed pandemic and business continuity plans in February 2020
 - Activated and launched Emergency Operations Center using Incident Command System on March 2, 2020
 - Instituted “Work From Home” across NYPA and NYS Canals in early March 2020
- Maintained reliability and availability of our generation and transmission system
 - Sequestered in-place 80+ control room and control center operators
- Convened and coordinated the response of the generation and utility companies in New York state
- Paused all capital and operations & maintenance work
- Issued \$1.2 billion in long-term bonds in April 2020 and significantly buttressed enterprise liquidity and flexibility

COVID19 Regional Reopening Plans

- Responsible “Return To Workplace” Plan – Ricardo DaSilva
- Unpausing Capital and Operations & Maintenance Work – Evan Yager
- Regional Reopening of the New York State Canals – Dave Mellen

Enterprise Operations

Return to the Workplace – Key Principles

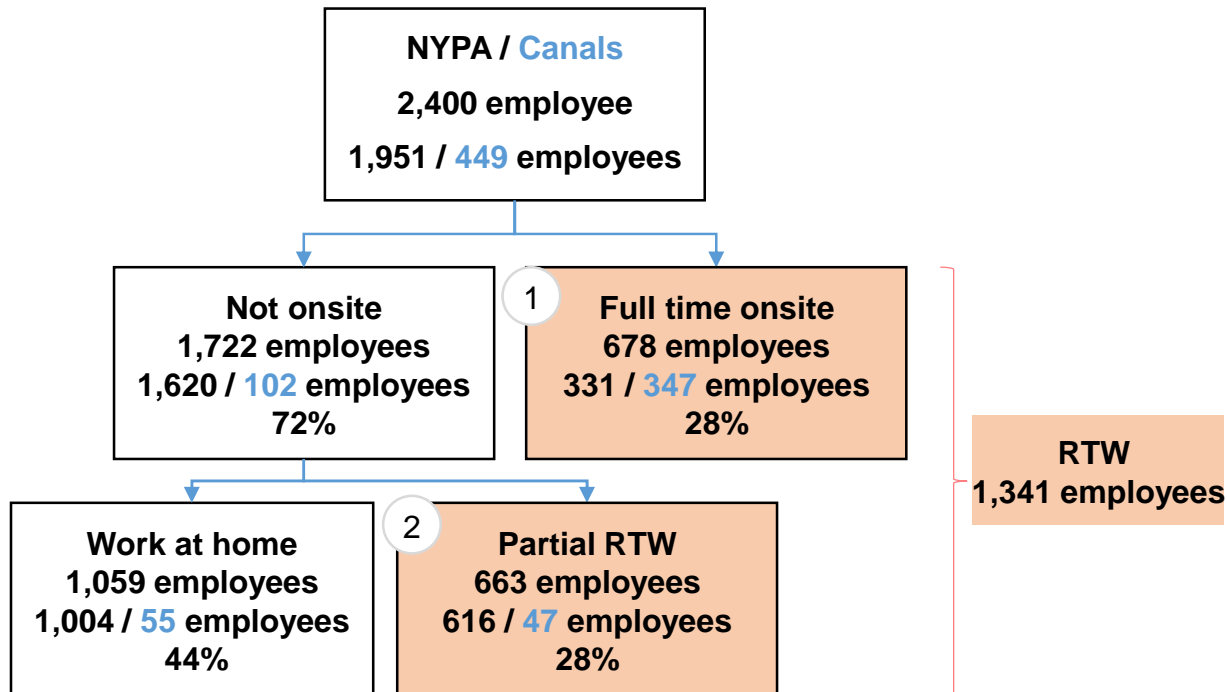
- The **health and safety** of our employees and state is number one.
- Following the Governor's guidance, essential work drives the schedule and pace of re-entry.
- **Site and Office -specific** re-entry plans developed and vetted with leadership.
- Return to the workplace is driven by the **operations and maintenance** tasks.
- Actions are being taken to minimize and **manage density**.
- First phase of re-entry started on **May 18 in the eligible regions according to Governor's guidance** – Central NY, Mohawk Valley, Finger Lakes, Southern Tier, North Country.
- **Communications** and resources are being made available to provide for a consistent message adhering to RTW guidelines.

Return to the Workplace – Approach

| Sections | Key Points |
|--|---|
| Re-Entry Considerations | <ul style="list-style-type: none"> ▪ Employees will be brought back on site in several stages based on essential criteria and as the Governor un-pauses regions ▪ Phased approach – employee numbers to increase based upon improved conditions ▪ ~ 28% employees will RTW F/T & ~ 28% will RTW P/T (1-2 days a week) ▪ “Essential” staff that can perform their job duties remotely; “non-essential” staff who cannot will remain at home. This will be re-evaluated on an ongoing basis |
| Preparing the Workforce | <ul style="list-style-type: none"> ▪ Workforce supported via new / updated policies, an employee guide and e-learning ▪ Cultivate a culture of shared social responsibility ▪ Support those who will continue to work remotely ▪ Crew segmentation, workplace or work schedules updated to maintain social distancing |
| Preparing the Workplace | <ul style="list-style-type: none"> ▪ Workplace prepared via deep cleaning, informational signs, PPE, etc. |
| Implementation & Monitoring | <ul style="list-style-type: none"> ▪ Monitor NYS Data and health of NYPA personnel ▪ Monitor compliance with RTW protocols ▪ Gather and incorporate lessons-learned |

Prioritizing Which / When Employees Return

NYPA / Canals Employee RTW

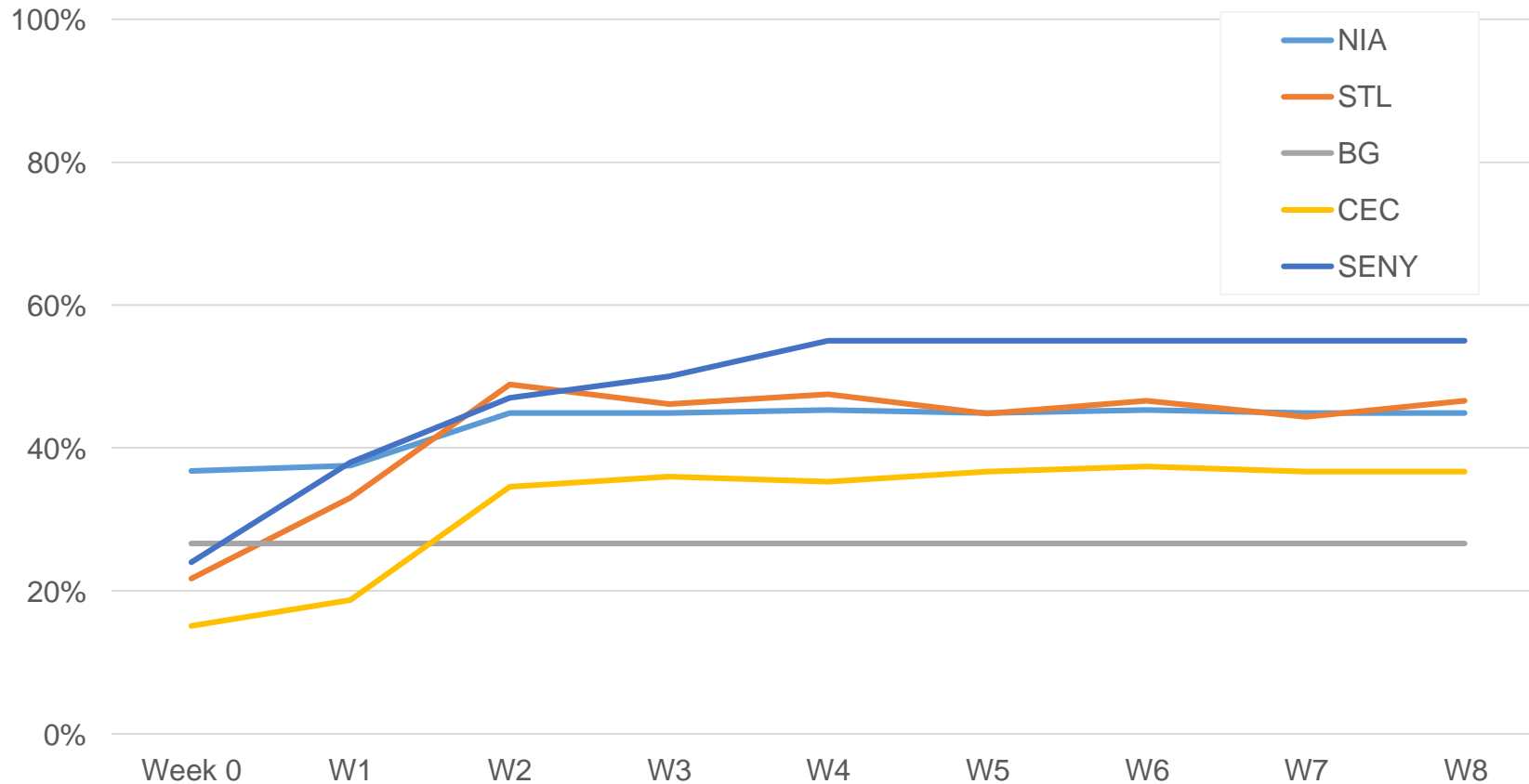


■ Only ~28% of NYPA / Canal staff is required to return to the workplace fulltime.

■ Another ~28% of NYPA / Canal may require workplace return partially.

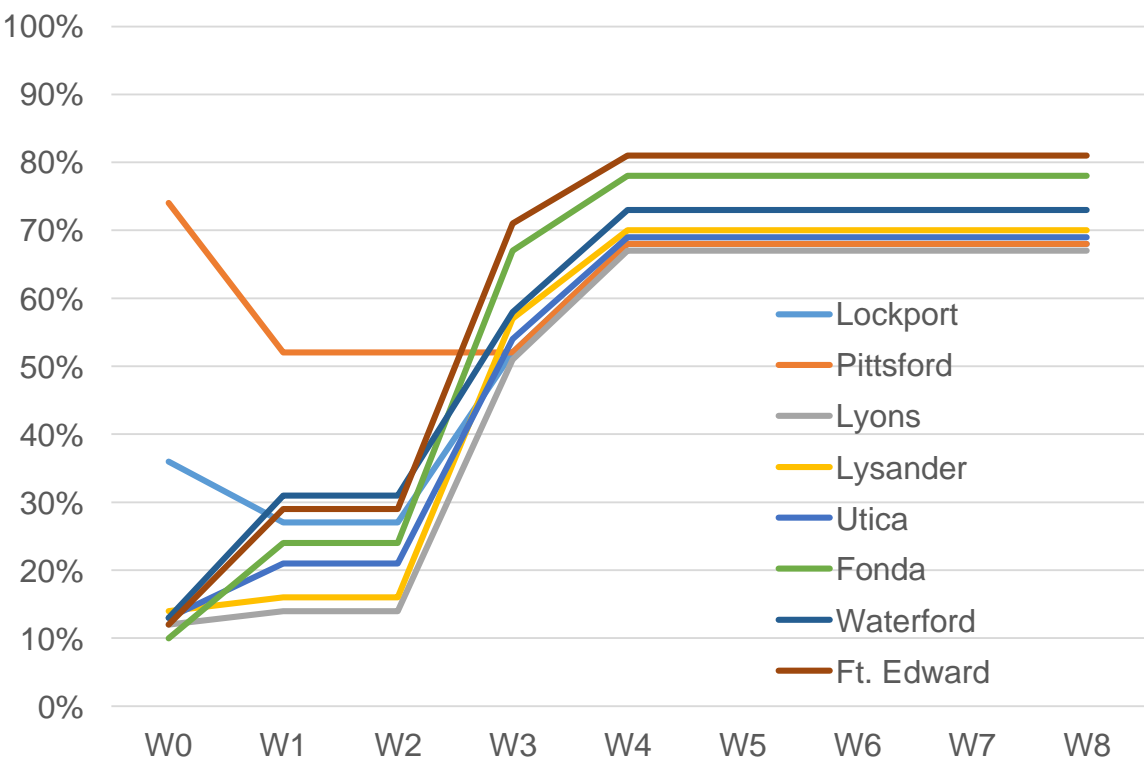
Return Pace for NYPA Operating Sites

NYPA Operating Site Employee Return per work shift

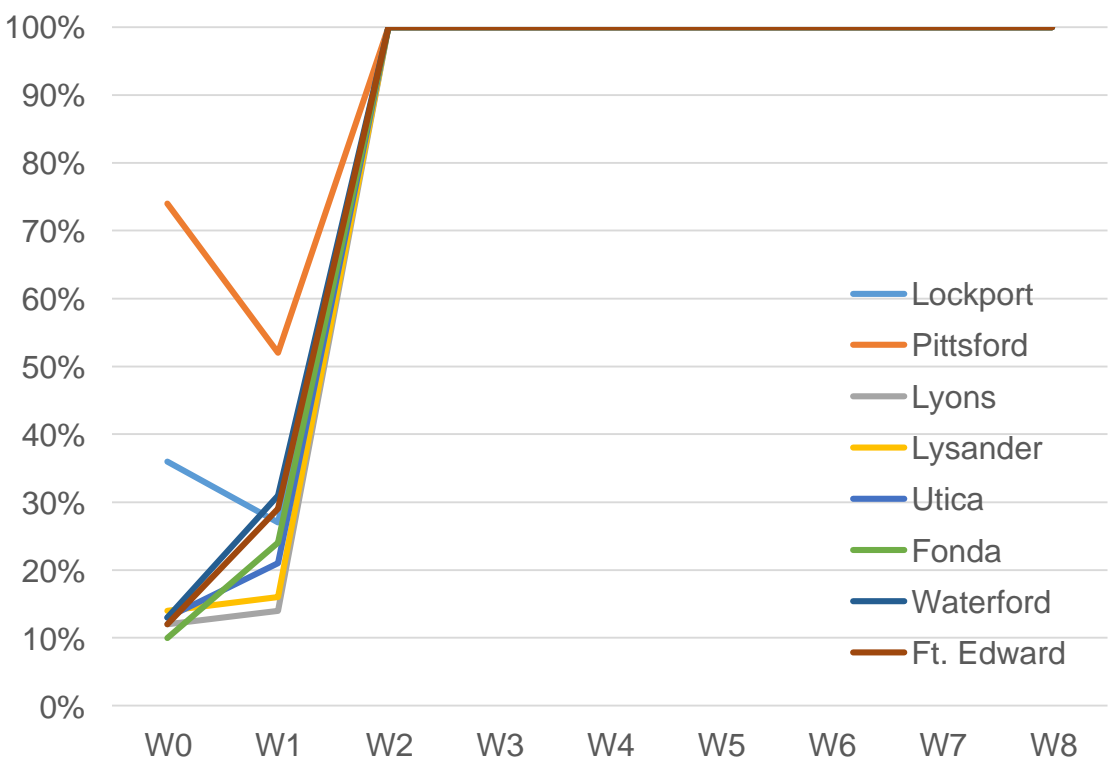


Return Pace for Canals Operating Sites

Canal Operating Site Employee Return per work shift if Canals Remain Closed

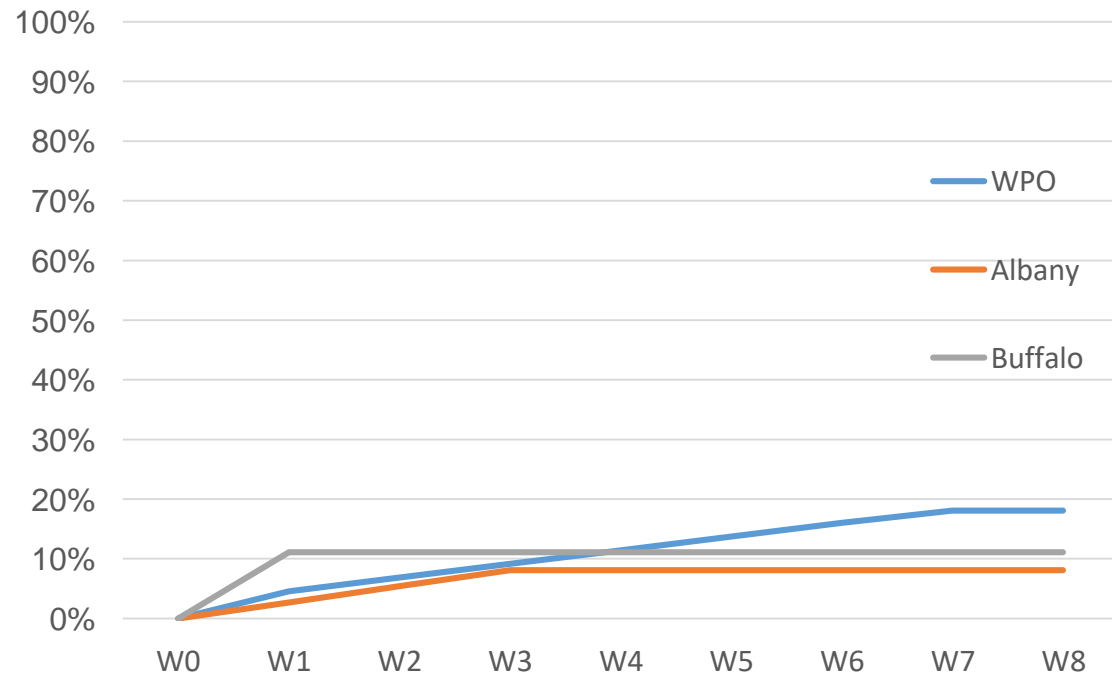


Canals Operating Site Employee Return per work shift if Canals Open

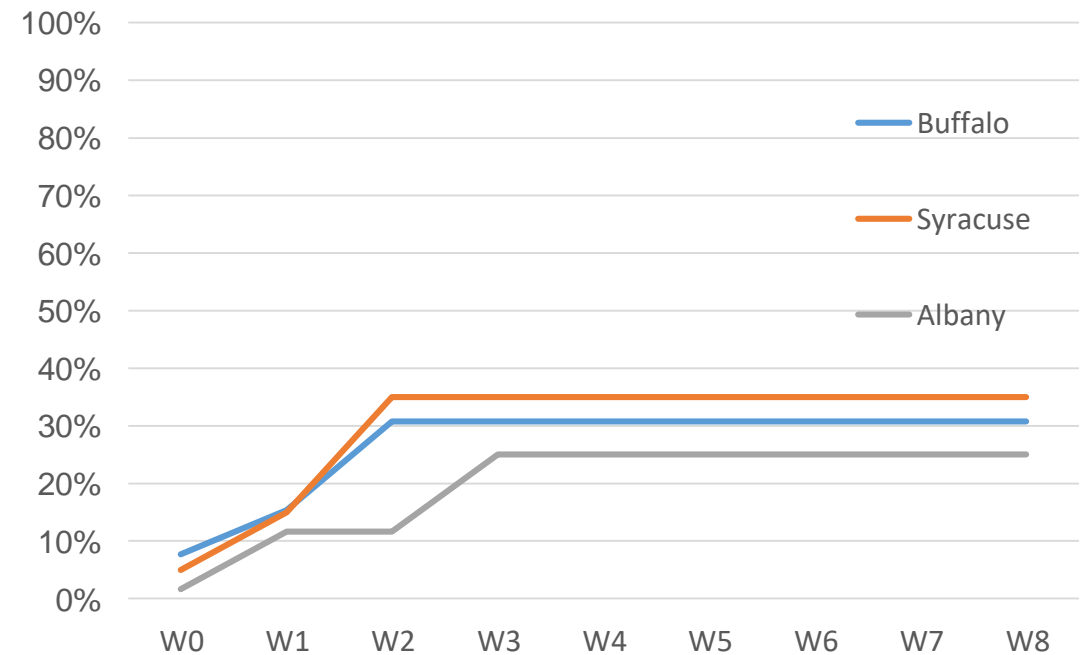


Return Pace for NYPA / Canals Administration Sites

**NYPA Admin Site Employee Return
per work shift**



**Canals Admin Site Employee Return
per work shift**





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Unpausing Capital and Operations & Maintenance Work

Completed to Date

Work Categorization

- “Continue” (*not Construct*)
- Q4 Restart
- Defer

Identification of Essential work under “Executive Order 202”

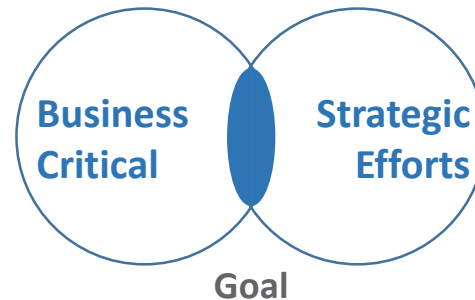
- Minimal amount of work approved by Legal

Baseline *Revised* Plan Established

- \$420 - \$450M *cash* reduction across Capital/O&M portfolios

In Progress

Balancing NYPA Objectives



Restart Prioritization Factors

- Safe & Secure Work
- Regulatory/Mandated
- Customer Essential
- COVID-Adaptable
- Major In-Flight Contracts

Resulting Plan

Establish Project Restart “Batches”

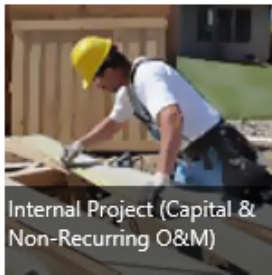
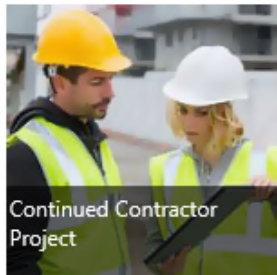
- Aligned with regional restart plan(s)
- Starting with work identified as Continue
- Followed by Q4 Restart
- Batches approved on a monthly basis or ad-hoc where required
- Project leads notified upon approval

Once notified, project teams shall proceed through “RTW” or Return-to-Work Checklist

Unpausing Capital and Operations & Maintenance Work

RETURN TO WORKPLACE CONSTRUCTION

Incorporated within this Return to Workplace Construction SharePoint site are three (3) scenarios for NYPA & Canals Construction Projects. All Construction Projects will fall within one (1) of these scenarios. Continued Contractor projects are Construction projects utilizing contractors external for NYPA & Canals. Internal Maintenance Projects are projects utilizing internal NYPA & Canals craft. Third Party Permitted Projects are construction projects in which NYPA issued a permit on.



Automated Workflow

- Initiated by team, routed electronically
- Financial Confirmation
- Legal Agreement
- Public Relations/Comms Engagement
- EH&S (Revised HASP's)
- SSM (Contract Impacts)
- Leadership Approval



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Regional Reopening of the New York State Canals

May 16, 2020 | 1:45 pm

Information on Novel Coronavirus

Coronavirus is still spreading in New York. New Yorkers are required to wear a mask and maintain 6 feet distance in public.

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NOTICE TO MARINERS – 2020 CANAL SEASON OPENING SCHEDULE

The New York State Canal Corporation today announced that much of the 524-mile Canal system **will open for through navigation of the locks by July 4, 2020** as maintenance and construction projects are set to resume on a regional basis under the “NY Forward Reopening” plan.

Canal Corporation crews and contractors will mobilize to work sites in the Capital Region, Mohawk Valley, Central NY, Finger Lakes, and Western NY regions as those areas reopen. Maintenance work that needs to be completed at specific Canal facilities varies by location and locks along the Erie, Champlain, Oswego, and Cayuga-Seneca Canals will open for passage in a staggered fashion. Announcements regarding specific lock or regional openings will be communicated through the Canal Corporation’s “Notice to Mariners” notification program available at www.canals.ny.gov.

OPENING SCHEDULE (TENTATIVE)

Capital Region – “NY Forward Reopening” Date TBD

- Erie Canal from Lock E-2 in Waterford to Lock E-9 in Rotterdam
- Champlain Canal from Lock C-1 in Waterford to Lock C-12 in Whitehall

Mohawk Valley Region – Locks opening in phases, targeted for between July 4th & August 10th

- Erie Canal Lock E-10 in Cranesville through Sylvan Beach at Oneida Lake



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Financial Management



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CFO Report

Adam Barsky

EVP & Chief Financial Officer

May 19, 2020

3+9 Full Year Forecast

YEAR END PROJECTION (JANUARY - DECEMBER 2020)

| In \$ Thousands | 2020 Budget (\$) | 2020 Current (\$) | Variance (\$) |
|--------------------------------|--------------------|--------------------|------------------|
| Net Operating Income | | | |
| Operating Revenue | | | |
| Customer Revenue | \$1,786,465 | \$1,702,855 | (\$83,610) |
| Market-Based Power Sales | 524,543 | 349,373 | (175,169) |
| Non Utility Revenue | 30,128 | 24,418 | (5,709) |
| Ancillary Service Revenue | 45,417 | 37,616 | (7,800) |
| NTAC and Other | 193,707 | 193,100 | (607) |
| Operating Revenue Total | 2,580,259 | 2,307,363 | (272,895) |
| Operating Expense | | | |
| Purchase Power | (612,391) | (465,064) | 147,327 |
| Ancillary Service Expense | (58,270) | (58,082) | 187 |
| Fuel Consumed | (158,717) | (84,241) | 74,476 |
| Wheeling | (644,109) | (659,893) | (15,784) |
| Operations & Maintenance | (612,582) | (621,995) | (9,413) |
| Other Expense | (119,785) | (118,313) | 1,472 |
| Covid-19 Expense* | 0 | (5,495) | (5,495) |
| Allocation to Capital | 22,156 | 11,078 | (11,078) |
| Operating Expense Total | (2,183,698) | (2,002,005) | 181,693 |
| EBIDA Total | 396,561 | 305,358 | (91,203) |
| EBIDA NYPA | 487,588 | 396,501 | (91,087) |
| EBIDA Canals | (91,027) | (91,143) | (116) |

Margins - Generation** (\$59,082)

Margins - Transmission (1,860)

Margins - Non Utility (5,748)

** Includes Merchant Gross Margin Variance of (\$42,827): Budget @ \$335,449 vs Current @ \$292,622

Operating Expenses (24,513)

(91,203)

Non Operating

| | | | |
|--|------------------|------------------|------------|
| Interest and Other Expenses | | | |
| Interest & Other Expenses | (120,919) | (122,778) | (1,859) |
| Investment and Other Income | 28,726 | 33,518 | 4,792 |
| Mark to Market Adjustments | (359) | (3,851) | (3,491) |
| Depreciation | (262,536) | (261,174) | 1,362 |
| Interest and Other Expenses Total | (355,088) | (354,283) | 805 |

Non-Operating Net 805

| | | | |
|-------------------|-----------------|-------------------|-------------------|
| NET INCOME | \$41,473 | (\$48,925) | (\$90,398) |
|-------------------|-----------------|-------------------|-------------------|

(\$90,398)

EBIDA: Earnings Before Interest Depreciation & Amortization

*Covid-19: Expected incremental expenses into the forecast.



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May 19, 2020



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Legal Services Contract Awards

I. General Services Counsel Q19-6856SS

Abrams & Abrams
363 7th Avenue
New York, NY 10001

Baker Botts
910 Louisiana Street
Houston, TX 77002

Barclay Damon LLP
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202

Bleakley Platt & Schmidt LLP
One North Lexington Avenue
White Plains, NY 10601

Bond, Schoeneck & King PLLC
1010 Franklin Avenue, Suite 200
Garden City, NY 11530

Burgher Gray LLP
1350 Broadway #406
New York, NY 10018

Carter, Ledyard & Milburn LLP
2 Wall Street
New York, NY 10005

Dellaverson PC
381 Park Avenue South
New York, NY 10016

Devaprasad PLLC
119 Washington Avenue
Albany, NY 12210

Fox Rothschild LLP
2000 Market Street, 20th Floor

Philadelphia, PA 19103
Fried, Frank, Harris, Schriver & Jacobson LLP
One New York Plaza
New York, NY 10004

Gibbons PC
One Gateway Center
Newark, NJ 07102

Holland & Knight
800 17th Street NW
Washington, DC 20006

Jackson Lewis P.C.
677 Broadway, 9th Floor
Albany, NY 12207

Jenner & Block
919 3rd Avenue
New York, NY 10022

Mintzer Mauch PLLC
290 Madison Avenue, 4th Floor
New York, NY 10017

Schiff Hardin
1185 Avenue of the Americas
Suite 300
New York, NY 10036

II. Bond, Underwriter and Disclosure Counsel RFP Q19-6856SS

Bryant Rabbino LLP
650 Fifth Avenue Suite 3300\
New York, NY 10019

Burgher Gray LLP
1350 Broadway #406
New York, NY 10018

Hardwick Law Firm LLC
2405 Grand Boulevard #800
Kansas, MO 64108

Hawkins, Delafield & Wood LLP
7 World Trade Center
250 Greenwich Street
New York, NY 10007

Katten Muchin Rosenman LLP
575 Madison Avenue
New York, NY 10022

Nixon Peabody LLP
55 West 46th Street
New York, NY 10036

Norton Rose & Fulbright LLP
1301 Avenue of the Americas
New York, NY 10019

III. Energy Services Counsel RFP Q19-6856SS

Dentons
1900 K Street NW
Washington, DC 20006

Stinson LLP
1775 Pennsylvania Avenue, NW
Washington, DC 20006

Stoel Rives LLP
1150 18th Street NW, Suite 325
Washington, DC 20006

Troutman Sanders LLP
401 9th Street NW #1000
Washington, DC 20004

VanNess Feldman LLP
1050 Thomas Jefferson Street NW
Washington, DC 20007

Exhibit "B"
May 19, 2020

Barclay Damon LLP – Contract No. 4600002973
Barclay Damon Tower
125 East Jefferson Street
Syracuse, NY 13202

Bond, Schoeneck & King PLLC – Contract No. 4600002975
1010 Franklin Avenue, Suite 200
Garden City, NY 11530

Carter, Ledyard & Milburn LLP – Contract No. 4600002949
2 Wall Street
New York, NY 10005

Gibbons PC – Contract No. 4600002954
One Gateway Center
Newark, NJ 07102

Hawkins, Delafield & Wood LLP – Contract No. 4600002947
7 World Trade Center
250 Greenwich Street
New York, NY 10007

Holland & Knight (General) – Contract No. 4600002935
800 17th Street NW
Washington, DC 20006

Holland & Knight (Energy) – Contract No. 4600002952
800 17th Street NW
Washington, DC 20006

Jackson Lewis P.C. – Contract No. 4600002953
677 Broadway, 9th Floor
Albany, NY 12207

Orrick, Herrington & Sutcliffe – Contract No. 4600002968
51 West 52nd Street
New York, NY 10019

Stinson LLP – Contract No. 4600002950
1775 Pennsylvania Avenue, NW
Washington, DC 20006

VanNess Feldman LLP – Contract No. 4600003136
1050 Thomas Jefferson Street NW
Washington, DC 20007

New York Power Authority
Recommendations - Western New York (WNY) Hydropower Allocations
Expansion Power (EP)

Exhibit "A"
May 19, 2020

| Exhibit Number | Company | Program | City | County | IOU | Power Requested (kW) | New Jobs | Capital Investment (\$) | New Jobs Average Wage & Benefits | Power Recommended (kW) | Contract Term |
|----------------|-----------------------------|---------|--------------|------------|-------|----------------------|----------|-------------------------|----------------------------------|------------------------|---------------|
| A-1 | Rosina Food Products, Inc. | EP | West Seneca | Erie | NYSEG | 3,900 | 40 | \$58,000,000 | \$56,000 | 3,000 | 10 Years |
| A-2 | Petri Baking Products, Inc. | EP | Silver Creek | Chautauqua | NYSEG | 700 | 85 | \$12,950,000 | \$64,000 | 500 | 10 Years |
| Totals | | | | | | | 125 | \$70,950,000 | | 3,500 | |

APPLICATION SUMMARY
Expansion Power ("EP")

| | |
|---|---|
| Company: | Rosina Food Products, Inc. ("Rosina") |
| Location: | West Seneca, NY |
| County: | Erie County |
| IOU: | New York State Electric & Gas |
| Business Activity: | The company is a manufacturer of a wide variety of frozen food products. |
| Project Description: | Rosina is proposing to construct a new 105,000 square foot facility in West Seneca to serve as a manufacturing site for frozen food products. The project includes new production lines for the manufacturing of frozen meatballs, sliced sausage, and toppings. |
| Existing Allocation(s): | 200 kilowatts ("kW") of EP in West Seneca (adjacent to the proposed project site) and 350 kW of EP at a separate facility in Cheektowaga |
| Power Request: | 3,900 kW of EP |
| Power Recommended: | 3,000 kW of EP |
| Job Commitment: | |
| Base: | 159 |
| New: | At least 40 jobs |
| New Jobs/Power Ratio: | 13 jobs/MW |
| New Jobs - Avg. Wage and Benefits: | \$56,000 |
| Capital Investment: | At least \$58 million |
| Capital Investment/MW: | \$19.3 million/MW |
| Other ED Incentives: | (1) Erie County Industrial Development Agency incentives, and (2) Empire State Development via the Excelsior Jobs Program |
| Summary: | <p>Rosina is proposing to build a new 105,000 square foot manufacturing facility in West Seneca to accommodate the production of various frozen food products. The project would include new high-speed production lines and large-scale machinery and equipment purchases. The proposed project site in West Seneca is adjacent to another Rosina facility currently receiving NYPA hydropower.</p> <p>An allocation of low-cost hydropower, along with additional state support, could incentivize Rosina to choose West Seneca as the site for its new expansion project. If the project occurs, it could incentivize Rosina to consider additional expansion opportunities at the West Seneca facility in the future.</p> |

APPLICATION SUMMARY
Expansion Power (“EP”)

| | |
|---|---|
| Company: | Petri Baking Products, Inc. (“Petri”) |
| Location: | Silver Creek, NY |
| County: | Chautauqua County |
| IOU: | New York State Electric & Gas |
| Business Activity: | The company is a manufacturer of a wide variety of cookies. |
| Project Description: | Petri is proposing to reestablish its cookie manufacturing in Silver Creek. The project consists of purchasing the building and associated properties, installing manufacturing equipment, and making improvements for safe food production. |
| Existing Allocation(s): | None |
| Power Request: | 700 kW of EP |
| Power Recommended: | 500 kW of EP |
| Job Commitment: | |
| Base: | 0 |
| New: | At least 85 jobs |
| New Jobs/Power Ratio: | 170 jobs/MW |
| New Jobs - Avg. Wage and Benefits: | \$64,000 |
| Capital Investment: | At least \$12.95 million |
| Capital Investment/MW: | \$25.9 million/MW |
| Other ED Incentives: | (1) County of Chautauqua Industrial Development Agency and (2) Empire State Development incentives |
| Summary: | <p>Petri began operating its cookie production plant in Silver Creek in the early 1950’s and served as a major employer in the area for decades. In 2012, the company was sold to Ralcorp Holdings Inc., which was then acquired by ConAgra Foods, Inc. (“ConAgra”). As a result of these acquisitions, the Petri plant was eventually closed and its extensive manufacturing equipment was sold and/or moved to other ConAgra facilities.</p> <p>In 2019, the original Petri site in Silver Creek was offered for sale. Members of the Petri management team saw this as an opportunity to establish a “new” Petri. While the company has options to develop outside of New York, an allocation of hydropower, along with additional state support, could incentivize Petri to purchase and renovate the Silver Creek facility to reestablish manufacturing operations. Reestablishing operations at the Silver Creek facility could position Petri to consider additional expansion opportunities at the Silver Creek facility in the future.</p> |

POWER AUTHORITY

OF THE

STATE OF NEW YORK

30 South Pearl Street
10th Floor
Albany, New York 12207-3425

AGREEMENT FOR THE SALE
OF EXPANSION POWER AND/OR REPLACEMENT POWER

Petri Baking Products, Inc.

The POWER AUTHORITY OF THE STATE OF NEW YORK (“Authority”), created pursuant to Chapter 772 of the New York Laws of 1931 and existing under Title I of Article V of the New York Public Authorities Law (“PAL”), having its office and principal place of business at 30 South Pearl Street, 10th Floor, Albany, New York 12207-3425, hereby enters into this Agreement for the Sale of Expansion Power and/or Replacement Power (“Agreement”) with Petri Baking Products, Inc. (“Customer”) with offices and principal place of business at 18 Main Street, Silver Creek, NY 14136. The Authority and the Customer are from time to time referred to in this Agreement as “Party” or collectively as “Parties” and agree as follows:

RECITALS

WHEREAS, the Authority is authorized to sell hydroelectric power produced by the Niagara Power Project, Federal Energy Regulatory Commission (“FERC”) Project No. 2216, including hydropower known as Expansion Power (“EP”) and Replacement Power (“RP”) to qualified businesses in accordance with PAL § 1005(5) and (13);

WHEREAS, the Customer has applied for an allocation of EP and/or RP, or for an extension of an existing allocation of EP or RP, for use at facilities defined in this Agreement as the “Facility”;

WHEREAS, the Customer has offered to make specific commitments relating to, among other things, the creation and/or retention of jobs, capital investments, power usage and energy efficiency measures at the Facility;

WHEREAS, the Authority’s Board of Trustees approved an allocation of EP and/or RP to the Customer;

WHEREAS, the Parties have reached an agreement on the terms and conditions applicable for the sale of the EP and/or RP for a term provided in this Agreement;

WHEREAS, the Authority’s provision of Electric Service under this Agreement is an unbundled service separate from (i) the transmission of the allocation, and (ii) the delivery of the Allocation;

WHEREAS, electric service to be provided hereunder shall be subject to the rates and other terms and conditions contained in the Service Tariff No. WNY-2 as provided in this Agreement;

WHEREAS, the Authority has complied with requirements of PAL § 1009, and has been authorized to execute the Agreement; and

WHEREAS, the Authority has complied with requirements of PAL § 1009, and has been authorized to execute the Agreement.

NOW, THEREFORE, in consideration of mutual covenants, terms, and conditions herein, and for other good and valuable consideration, the receipt and adequacy of which the Parties hereby acknowledge, the Parties do hereby mutually covenant and agree as follows:

ARTICLE I

DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Agreement, shall have the meanings as set forth below. When used with initial capitalization, whether singular or plural, terms defined in schedules or appendices to this Agreement shall have the meanings set forth in such schedules or appendices.

“Adverse Water Condition” means any event or condition, including without limitation a hydrologic or hydraulic condition, that relates to the flow, level, or usage of water at or in the vicinity of the Project and/or its related facilities and structures, and which prevents, threatens to prevent, or causes the Authority to take responsive action that has the effect of preventing, the Project from producing a sufficient amount of energy to supply the full power and energy requirements of firm power and firm energy customers who are served by the Project.

“Agreement” means this Agreement, and unless otherwise indicated herein, includes all schedules, appendices and addenda thereto, as the same may be amended from time to time.

“Allocation” refers to the allocation(s) of EP and/or RP awarded to the Customer as specified in Schedule A.

“Alternative REC Compliance Program” has the meaning provided in Schedule E.

“Annual Capital Investment Commitment” has the meaning set forth in Schedule B.

“Annual CI Expenditures” has the meaning set forth in Schedule B.

“Base Employment Level” has the meaning set forth in Schedule B.

“Contract Demand” is as defined in Service Tariff No. WNY-2.

“Customer-Arranged Energy” means energy that the Customer procures from sources other than the Authority for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment.

“Effective Date” means the date that this Agreement is fully executed by the Parties.

“Electric Service” is the Firm Power and Firm Energy associated with the Allocation and sold by the Authority to the Customer in accordance with this Agreement, Service Tariff No. WNY-2 and the Rules.

“Energy Services” has the meaning set forth in Article V of this Agreement.

“Expansion Power” (or “EP”) is 250 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(13).

“Expansion Project” has the meaning set forth in Section IV.3.a of this Agreement.

“Expansion Project Capital Investment Commitment” has the meaning set forth in Schedule B.

“Facility” means the Customer’s facilities as described in Schedule A to this Agreement.

“Firm Power” is as defined in Service Tariff No. WNY-2.

“Firm Energy” is as defined in Service Tariff No. WNY-2.

“FERC” means the Federal Energy Regulatory Commission (or any successor organization).

“FERC License” means the first new license issued by FERC to the Authority for the continued operation and maintenance of the Project, pursuant to Section 15 of the Federal Power Act, which became effective September 1, 2007 after expiration of the Project’s original license which became effective in 1957.

“Hydro Projects” is a collective reference to the Project and the Authority’s St. Lawrence-FDR Project, FERC Project No. 2000.

“International Joint Commission” or “IJC” refers to the entity with responsibility to prevent and resolve disputes between the United States of America and Canada under the *1909 Boundary Waters Treaty* and pursues the common good of both countries as an independent and objective advisor to the two governments. The IJC rules upon applications for approval of projects affecting boundary or transboundary waters and may regulate the operation of these projects.

“Load Reduction” has the meaning set forth in Section IX.6 of this Agreement.

“Load Serving Entity” (or “LSE”) means an entity designated by a retail electricity customer (including the Customer) to provide capacity, energy and ancillary services to serve such customer, in compliance with NYISO Tariffs, rules, manuals and procedures.

“Metering Arrangement” has the meaning set forth in Section II.8 of this Agreement.

“NYEM” means the New York Energy Manager, an energy management center owned and operated by the Authority.

“NYEM Agreement” means a written agreement between the Authority and the Customer providing for the Facility’s enrollment and Customer’s participation in NYEM.

“NYEM Participation” has the meaning specified in Schedule B of this Agreement.

“NYISO” means the New York Independent System Operator or any successor organization.

“NYISO Charges” has the meaning set forth in Section VII.3 of this Agreement.

“NYISO Tariffs” means the NYISO’s Open Access Transmission Tariff or the NYISO’s Market Administration and Control Area Services Tariff, as applicable, as such tariffs are modified from time to time, or any successor to such tariffs.

“Planned Hydropower Curtailment” means a temporary reduction in Firm Energy to which the Customer is entitled to receive under this Agreement made by the Authority in response to an anticipated or forecasted Adverse Water Condition.

“Physical Energy Audit” or “Audit” means a physical evaluation of the Facility in a manner approved by the Authority that includes at a minimum the following elements: (a) an assessment of the Facility’s energy use, cost and efficiency which produces an energy utilization index for the Facility (such as an Energy Use Intensity or Energy Performance Indicator); (b) a comparison of the Facility’s index to indices for similar buildings/facilities; (c) an analysis of low-cost/no-cost measures for improving energy efficiency; (d) a listing of potential capital improvements for improving energy consumption; and (e) an initial assessment of potential costs and savings from such measures and improvements.

“Project” means the Niagara Power Project, FERC Project No. 2216.

“Replacement Power” (or “RP”) is 445 MW of Firm Power and associated Firm Energy from the Project eligible to be allocated by the Authority for sale to businesses pursuant to PAL § 1005(13).

“Reporting Year” means the yearly interval that the Authority uses for reporting, compliance and other purposes as specified in this Agreement. The Reporting Year for this Agreement is from January 1 through December 31, subject to change by the Authority without notice.

“Rolling Average” has the meaning set forth in Schedule B.

“Rules” are the applicable provisions of Authority’s rules and regulations (Chapter X of Title 21 of the Official Compilation of Codes, Rules and Regulations of the State of New York), as may be modified from time to time by the Authority.

“Service Information” has the meaning set forth in Section II.12 of this Agreement.

“Service Tariff No. WNY-2” means the Authority’s Service Tariff No. WNY-2, as may be modified from time to time by the Authority, which contains, among other things, the rate schedule establishing rates and other commercial terms for sale of Electric Service to Customer under this Agreement.

“Schedule A” refers to the Schedule A entitled “Expansion Power and/or Replacement Power Allocations” which is attached to and made part of this Agreement.

“Schedule B” refers to the Schedule B entitled “Supplemental Expansion Power and/or Replacement Power Commitments” which is attached to and made part of this Agreement, including any appendices attached thereto.

“Schedule C” refers to the Schedule C entitled “Takedown Schedule” which is attached to and made part of this Agreement.

“Schedule D” refers to the Schedule D entitled “Zero Emission Credit Charge” which is attached to and made part of this Agreement.

“Schedule E” refers to the Schedule E entitled “Monthly Renewable Energy Credit Charge” which is attached to and made part of this Agreement.

“Substitute Energy” means energy that is provided to the Customer by or through the Authority for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment or an Unplanned Hydropower Curtailment.

“Takedown” means the portion of the Allocation that Customer requests to be scheduled for a specific period as provided for in Schedule C, if applicable.

“Taxes” is as defined in Service Tariff No. WNY-2.

“Unforced Capacity” (or “UCAP”) means the electric capacity required to be provided by LSEs to serve electric load as defined by the NYISO Tariffs, rules, manuals and procedures.

“Unplanned Hydropower Curtailment” means a temporary reduction in the amount of Firm Energy to which the Customer is entitled to receive under this Agreement due to Adverse Water Condition that the Authority did not anticipate or forecast.

“Utility Tariff” means the retail tariff(s) of the Customer’s local electric utility filed and approved by the PSC applicable to the delivery of EP and/or RP.

ARTICLE II **ELECTRIC SERVICE**

1. The Authority shall make available Electric Service to enable the Customer to receive the Allocation in accordance with this Agreement, Service Tariff No. WNY-2 and the Rules.
2. The Customer shall not be entitled to receive Electric Service under this Agreement for any EP and/or RP allocation unless such EP and/or RP allocation is identified in Schedule A.
3. The Authority will provide, and the Customer shall accept and pay for, Electric Service with respect to the Allocation specified in Schedule A. If Schedule C specifies a Takedown Schedule for the Allocation, the Authority will provide, and the Customer shall accept and pay for, Electric Service with respect to the Allocation in accordance with such Takedown Schedule.
4. The Authority shall provide UCAP in amounts necessary to meet the Customer’s NYISO UCAP requirements associated with the Allocation in accordance with the NYISO Tariffs. The Customer shall be responsible to pay the Authority for such UCAP in accordance with Service Tariff No. WNY-2.

5. The provision of Electric Service associated with the Allocation is an unbundled service separate from the transmission and delivery of power and energy to the Customer. The Customer acknowledges and agrees that Customer's local electric utility, not the Authority, shall be responsible for delivering the Allocation to the Facility specified in Schedule A in accordance with the applicable Utility Tariff(s).
6. The Contract Demand for the Customer's Allocation may be modified by the Authority if the amount of Firm Power and Firm Energy available for sale as EP or RP from the Project is modified as required to comply with any ruling, order, or decision of any regulatory or judicial body having jurisdiction, including but not limited to FERC. Any such modification will be made on a pro rata basis to all EP and RP customers, as applicable, based on the terms of such ruling, order, or decision.
7. The Contract Demand may not exceed the Allocation.
8. The Customer's Facility must be metered by the Customer's local electric utility in a manner satisfactory to the Authority, or another metering arrangement satisfactory to the Authority must be provided (collectively, "Metering Arrangement"). A Metering Arrangement that is not satisfactory to the Authority shall be grounds, after notice to the Customer, for the Authority to modify, withhold, suspend, or terminate Electric Service to the Customer. If a Metering Arrangement is not made to conform to the Authority's requirements within thirty (30) days of a determination that it is unsatisfactory, the Authority may modify, withhold, suspend, or terminate Electric Service on at least ten (10) days' prior written notice to the Customer. After commencement of Electric Service, the Customer shall notify the Authority in writing within thirty (30) days of any alteration to the Facility's Metering Arrangement, and provide any information requested by the Authority (including Facility access) to enable the Authority to determine whether the Metering Arrangement remains satisfactory. If an altered Metering Arrangement is not made to conform to the Authority's requirements within thirty (30) days of a determination it is unsatisfactory, the Authority may modify, withhold, suspend, or terminate Electric Service on at least ten (10) days' prior written notice to the Customer. The Authority may, in its discretion, waive any of the requirements provided for in this Section in whole or in part where in the Authority's judgment, another mechanism satisfactory to the Authority can be implemented to enable the Authority to receive pertinent, timely and accurate information relating to the Customer's energy consumption and demand and render bills to the Customer for all fees, assessments and charges that become due in accordance with this Agreement, Service Tariff No. WNY-2, and the Rules.
9. The Customer consents to the exchange of information between the Authority and the Customer's local electric utility pertaining to the Customer that such parties determine is necessary to provide for the allocation, sale and delivery of the Allocation to the Customer, the proper and efficient implementation of the EP and/or RP program, billing related to Electric Service, and/or the performance of such parties' obligations under any contracts or other arrangements between them relating to such matters. In addition, the Customer agrees to complete such forms and consents that the Authority determines are necessary to effectuate such exchanges of information.

10. The provision of Electric Service by the Authority shall be dependent upon the existence of a written agreement between the Authority and the Customer's local electric utility providing for the delivery of the Allocation on terms and conditions that are acceptable to the Authority.
11. The Customer understands and acknowledges that the Authority may from time to time require the Customer to complete forms, execute consents, and provide information (collectively, "Service Information") that the Authority determines is necessary for the provision of Electric Service, the delivery of the Allocation, billing related to Electric Service, the effective administration of the EP and/or RP programs, and/or the performance of contracts or other arrangements between the Authority and the Customer's local electric utility. The Customer's failure to provide Service Information on a timely basis shall be grounds for the Authority in its discretion to modify, withhold, suspend, or terminate Electric Service to the Customer.

ARTICLE III

RATES, TERMS AND CONDITIONS

1. Electric Service shall be sold to the Customer in accordance with the rates, terms and conditions provided for in this Agreement, Service Tariff No. WNY-2 and the Rules. The Authority agrees to waive the Minimum Monthly Charge set forth in Service Tariff No. WNY-2 for a period up to one (1) year upon written request from the Customer that is accompanied by information that demonstrates to the Authority's satisfaction a short-term reduction or interruption of Facility operations due to events beyond the Customer's control. The Customer shall provide such information that the Authority requests during the period of any such waiver to enable the Authority to periodically evaluate the ongoing need for such waiver.
2. If the Authority at any time during the term of this Agreement enters into an agreement with another customer for the sale of EP or RP at power and energy rates that are more advantageous to such customer than the power and energy rates provided in this Agreement and Service Tariff No. WNY-2, then the Customer, upon written request to the Authority, will be entitled to such more advantageous power and energy rates in the place of the power and energy rates provided in this Agreement and Service Tariff No. WNY-2 effective from the date of such written request, provided, however, that the foregoing provision shall not apply to:
 - a. any agreement for the sale of EP and/or RP with an Authority customer whose purchase of EP and/or RP is associated with an Authority service tariff other than Service Tariff No. WNY-2, including Authority Service Tariff No. WNY-1; or
 - b. any agreement for the sale of EP and/or RP with an Authority customer which is associated with such customer's participation in an Alternative REC Compliance Program provided for in Schedule E of this Agreement.
3. Notwithstanding any provision of this Agreement to the contrary, the power and energy rates for Electric Service shall be subject to increase by Authority at any time upon 30 days prior written notice to Customer if, after consideration by Authority of its legal obligations, the marketability of the output or use of the Project and Authority's competitive position with

respect to other suppliers, Authority determines in its discretion that increases in rates obtainable from any other Authority customers will not provide revenues, together with other available Authority funds not needed for operation and maintenance expenses, capital expenses, and reserves, sufficient to meet all requirements specified in Authority's bond and note resolutions and covenants with the holders of its financial obligations. Authority shall use its best efforts to inform Customer at the earliest practicable date of its intent to increase the power and energy rates pursuant to this provision. With respect to any such increase, Authority shall forward to Customer with the notice of increase, an explanation of all reasons for the increase, and shall also identify the sources from which Authority will obtain the total of increased revenues and the bases upon which Authority will allocate the increased revenue requirements among its customers. Any such increase in rates shall remain in effect only so long as Authority determines such increase is necessary to provide revenues for the purposes stated in the preceding sentences.

4. In addition to all other fees, assessments and charges provided for in the Agreement, Service Tariff WNY-2 and the Rules, the Customer shall be responsible for payment of the Zero Emission Credit Charge and Monthly Renewable Energy Credit Charge provided for in Schedule D and Schedule E, respectively, of this Agreement.

ARTICLE IV **SUPPLEMENTAL COMMITMENTS**

1. Supplemental Commitments. Schedule B sets forth the Customer's "Supplemental Expansion Power and/or Replacement Power Commitments" ("Supplemental Commitments"). The Authority's obligation to provide Electric Service under this Agreement is expressly conditioned upon the Customer's timely compliance with the Supplemental Commitments described in Schedule B as further provided in this Agreement. The Customer's Supplemental Commitments are in addition to all other commitments and obligations provided in this Agreement.
2. *[Intentionally Left Blank]*
3. Special Provisions Relating to a New or Expanded Facility.

- a. Proposed New or Expanded Facility; Failure to Complete.

If Schedule B provides for the construction of a new facility or an expansion of an existing facility (collectively, "Expansion Project"), and the Customer fails to complete the Expansion Project by the date specified in Schedule B, the Authority may, in its discretion, (a) cancel the Allocation, or (b) if it believes that the Expansion Project will be completed in a reasonable time, agree with the Customer to extend the time for completion of the Expansion Project.

- b. Proposed New or Expanded Facility; Partial Performance.

If the Expansion Project results in a completed Facility that is only partially operational, or is material different than the Expansion Project agreed to in Schedule B (as measured

by such factors as size, capital investment expenditures, capital improvements, employment levels, estimated energy demand and/or other criteria determined by the Authority to be relevant), the Authority may, in its discretion, on its own initiative or at the Customer's request, make a permanent reduction to the Allocation and Contract Demand to an amount that the Authority determines to fairly correspond to the completed Facility.

c. Notice of Completion; Commencement of Electric Service.

- (i) The Customer shall give the Authority not less than ninety (90) days' advance written notice of the anticipated date of completion of an Expansion Project. The Authority will inspect the Expansion Project for the purpose of verifying the status of the Expansion Project and notify Customer of the results of the inspection. The Authority will thereafter commence Electric Service within a reasonable time subject to the other provisions of this Agreement based on applicable operating procedures of the Authority, Customer's local electric utility and NYISO.
- (ii) In the event of an Expansion Project being completed in multiple phases, at the Customer's request the Authority may, in its discretion, allow commencement of part of the Allocation upon completion of any such phase, provided the Authority will similarly inspect the Expansion Project for the purpose of verifying the status of the completed phase of the Expansion Project. Upon such verification by the Authority of any such completed phase, the Authority, in its discretion, will determine an amount of kW that fairly corresponds to the completed phase of the Expansion Project, taking into account relevant criteria such as any capital expenditures, increased employment levels, and/or increased electrical demand associated with the completed phase of the Expansion Project.

d. Other Rights and Remedies Unaffected.

Nothing in this Article is intended to limit the Authority's rights and remedies provided for in the other provisions of this Agreement, including without limitation the provisions in Schedule B of this Agreement.

ARTICLE V
ENERGY-RELATED PROJECTS, PROGRAMS AND SERVICES

The Authority shall periodically communicate with the Customer for the purpose of informing the Customer about energy-related projects, programs and services ("Energy Services") offered by the Authority that in the Authority's view could provide value to the Customer and/or support the State's Clean Energy Standard. The Customer shall review and respond to all such offers in good faith, provided, however, that, except as otherwise provided for in this Agreement, participation in any such Energy Services shall be at the Customer's option, and subject to such terms and conditions agreed to by the Parties in one or more definitive agreements.

ARTICLE VI
SERVICE TARIFF; CONFLICTS

1. A copy of Service Tariff No. WNY-2 in effect upon the execution of this Agreement is attached to this Agreement as Exhibit 1, and will apply under this Agreement with the same force and effect as if fully set forth herein. The Customer consents to the application of Service Tariff WNY-2. Service Tariff No. WNY-2 is subject to revision by the Authority from time to time, and if revised, the revised provisions thereof will apply under this Agreement with the same force and effect as if set forth herein. The Authority shall provide the Customer with prior written notice of any revisions to Service Tariff No. WNY-2.
2. In the event of any inconsistencies, conflicts, or differences between the provisions of Service Tariff No. WNY-2 and the Rules, the provisions of Service Tariff No. WNY-2 shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of this Agreement and Service Tariff No. WNY-2 or the Rules, the provisions of this Agreement shall govern.

ARTICLE VII
TRANSMISSION AND DELIVERY

1. The Customer shall be responsible for:
 - a. complying with all requirements of its local electric utility (including any other interconnecting utilities) that are necessary to enable the Customer to receive delivery service for the Allocation. Delivery of the Allocation shall be subject to the Utility Tariff;
 - b. paying its local electric utility for delivery service associated with the Allocation in accordance with the Utility Tariff, and if the Authority incurs any charges associated with such delivery service, reimbursing the Authority for all such charges; and
 - c. obtaining any consents and agreements from any other person that are necessary for the delivery of the Allocation to the Facility, and complying with the requirements of any such person, provided that any such consents, agreements and requirements shall be subject to the Authority's approval.
2. The Authority will use good faith efforts to provide the Customer with at least one year's advance notice of the scheduled expiration of Historic Fixed Price Transmission Congestion Contracts. After issuance of any such notice, the Authority will make itself available at reasonable times to collaborate with the Customer and other EP and RP customers to discuss potential risk-hedging options that might be available following expiration of such contracts.
3. The Customer understands and acknowledges that delivery of the Allocation will be made over transmission facilities under the control of the NYISO. The Authority will act as the LSE with respect to the NYISO, or arrange for another entity to do so on the Authority's behalf. The Customer agrees and understands that it shall be responsible to the Authority for all costs incurred by the Authority with respect to the Allocation for the services established in the NYISO Tariff, or other applicable tariff ("NYISO Charges"), as set forth in Service

Tariff No. WNY-2 or any successor service tariff, regardless of whether such NYISO Charges are transmission-related.

4. The Authority will consider opportunities to assist the Customer concerning actions, practices, or procedures of the Customer's local electric utility identified by the Customer that could adversely impact the implementation and effectiveness of the EP and RP programs, provided that whether or not to take any action or adopt any position on any issue, including any adverse position, is within the Authority's discretion and further subject to applicable laws, regulations and existing legal obligations.

ARTICLE VIII

BILLING AND BILLING METHODOLOGY

1. The billing methodology for the Allocation shall be determined on a "load factor sharing" basis in a manner consistent with the Utility Tariff and any agreement between the Authority and the Customer's local electric utility. An alternative basis for billing may be used provided the Parties agree in writing and the local electric utility provides its consent if such consent is deemed necessary.
2. All other provisions with respect to billing are set forth in Service Tariff No. WNY-2 and the Rules.
3. The rights and remedies provided to the Authority in this Article are in addition to any and all other rights and remedies available to Authority at law or in equity.

ARTICLE IX

HYDROPOWER CURTAILMENTS AND SUBSTITUTE ENERGY

1. The Customer shall, on a form provided by the Authority, elect to either (a) purchase Substitute Energy from the Authority, or (b) rely on Customer-Arranged Energy, for the purpose of replacing Firm Energy that is not supplied to the Customer due to a Planned Hydropower Curtailment. The Customer shall make its election in accordance with the time period and other requirements prescribed in such form. The election shall apply for the entire calendar year identified in the form.
2. The Customer may change its election on a form provided by the Authority by giving the Authority notice of such change no later than the first day of November preceding the calendar year to which the Customer intends such change to become effective. Such change shall be effective on the first day of January following the Authority's receipt the Customer's notice and shall remain in effect unless it is changed in accordance with the provisions of Section IX.1.
3. In the event of an anticipated or planned Adverse Water Condition, the Authority will have the right in its discretion to implement Planned Hydropower Curtailments. The Authority will implement Planned Hydropower Curtailments on a non-discriminatory basis as to all Authority customers that are served by the Project. The Authority will provide the Customer with advance notice of Planned Hydropower Curtailments that in the Authority's judgment will impact Electric Service to the Customer no later than the tenth business day of the month

prior to the month in which the Planned Hydropower Curtailment is expected to occur unless the Authority is unable to provide such notice due to the circumstances that impede such notice, in which case the Authority will provide such advance notice that is practicable under the circumstances.

4. If the Customer elected to purchase Substitute Energy from the Authority, the Authority shall provide Substitute Energy to the Customer during all Planned Hydropower Curtailments. Unless otherwise agreed upon by the Parties in writing, Substitute Energy shall be sourced from markets administered by the NYISO. The Authority may require the Customer to enter into one or more separate agreements to facilitate the provision of Substitute Energy to the Customer.
5. If the Customer elected to rely on Customer-Arranged Energy, the Authority shall have no responsibility to provide the Customer with Substitute Energy during any Planned Hydropower Curtailment, and the Customer shall be responsible for the procurement, scheduling, delivery and payment of all costs associated with Customer-Arranged Energy.
6. The Customer shall have the right to reduce its load in response to a Planned Hydropower Curtailment (a "Load Reduction"), provided, however, that the Customer shall, on an Authority form, provide the Authority with no less than seven (7) days' advance notice of the time period(s) during when the Load Reduction will occur, the estimated amount of the Load Reduction (demand and energy), and all other information required by such form. The Authority will confirm whether the notice provides the required information and proposed Load Reduction has been accepted. The Customer shall reimburse the Authority for all costs that the Authority incurs as a result of the Customer's failure to provide such notice.
7. In the event of an Adverse Water Condition that the Authority did not anticipate or forecast, the Authority shall have the right in its discretion to implement Unplanned Hydropower Curtailments. The Unplanned Hydropower Curtailments will be implemented on a non-discriminatory basis as to all Authority customers that are served by the Project.
8. The Authority will provide the Customer with notice of Unplanned Hydropower Curtailments that in the Authority's judgment will impact Electric Service to the Customer within five (5) business days after the first occurrence of an Unplanned Hydropower Curtailment that occurs within a month, and thereafter will provide the Customer with reasonable notice under the circumstances of the potential for any other Unplanned Hydropower Curtailments that are expected to occur within such month or beyond. The Authority will give the Customer notice of any Unplanned Hydropower Curtailments that the Authority believes are likely to exceed forty-eight (48) continuous hours in duration.
9. Notwithstanding the Customer's election pursuant to Section IX.1, the Authority shall provide the Customer with Substitute Energy during Unplanned Hydropower Curtailments.
10. For each kilowatt-hour of Substitute Energy provided by the Authority during a Planned Hydropower Curtailment, the Customer shall pay the Authority directly during the billing month: (1) the difference between the market cost of the Substitute Energy and the charge for firm energy as provided for in this Agreement; and (2) any NYISO charges and taxes the Authority incurs in connection with the provision of such Substitute Energy. Unless

otherwise agreed upon by the Parties in writing, billing and payment for Substitute Energy provided for Planned Hydropower Curtailments shall be governed by the provisions of Service Tariff WNY-2 relating to the rendition and payment of bills for Electric Service.

11. The Customer shall be responsible for all costs associated with the Authority's provision of Substitute Energy during Unplanned Hydropower Curtailments. Unless otherwise agreed upon by the Parties in writing, billing and payment for Substitute Energy provided for Unplanned Hydropower Curtailments shall be governed by the provisions of Service Tariff WNY-2 relating to the rendition and payment of bills for Electric Service.
12. The Authority shall be under no obligation to deliver and will not deliver any such curtailed energy to the Customer in later billing periods.

ARTICLE X

EFFECTIVENESS, TERM AND TERMINATION

1. This Agreement shall become effective and legally binding on the Parties on the Effective Date.
2. Once commenced, Electric Service under the Agreement shall continue until the earliest of: (a) termination by the Customer with respect to its Allocation upon ninety (90) days prior written notice to the Authority; (b) termination by the Authority pursuant to this Agreement, Service Tariff No. WNY-2, or the Rules; or (c) expiration of the Allocation by its own term as specified in Schedule A.
3. The Customer may exercise a partial termination of the Allocation upon at least sixty (60) days' prior written notice to the Authority. The Authority will effectuate the partial termination as soon as practicable after receipt of such notice taking account of the Authority's internal procedures and requirements of the Customer's local electric utility.
4. The Authority may cancel service under this Agreement or modify the quantities of Firm Power and Firm Energy associated with the Allocation: (1) if such cancellation or modification is required to comply with any final ruling, order or decision of any regulatory or judicial body of competent jurisdiction (including any licensing or re-licensing order or orders of the FERC or its successor agency); or (2) as otherwise provided in this Agreement, Service Tariff No. WNY-2, or the Rules.

ARTICLE XI

EXTENSIONS OF ALLOCATION; AWARD OF ADDITIONAL ALLOCATIONS

1. The Customer may apply to the Authority for an extension of the term of the Allocation identified in Schedule A:
 - a. during the thirty-six (36) month period immediately preceding the scheduled expiration of the Allocation;

- b. pursuant to any other process that the Authority establishes; or
 - c. with the Authority's written consent.
2. Upon proper application by the Customer, the Authority may in accordance with applicable law and Authority procedures award additional allocations of EP and/or RP to the Customer at such rates and on such terms and conditions as the Authority establishes. If the Customer agrees to purchase Electric Service associated with any such additional allocation, the Authority will (a) incorporate any such additional allocations into Schedule A, or in its discretion will produce a supplemental schedule, to reflect any such additional allocations, and (b) produce a modified Appendix to Schedule B, as the Authority determines to be appropriate. The Authority will furnish the Customer with any such modified Schedule A, supplemental schedule, and/or a modified Appendix to Schedule B, within a reasonable time after commencement of Electric Service for any such additional allocation.
3. In addition to any requirements imposed by law, the Customer hereby agrees to furnish such documentation and other information as the Authority requests to enable the Authority to evaluate any requests for extension of the Allocation or additional allocations and consider the terms and conditions that should be applicable of any extension or additional allocations.

ARTICLE XII

NOTICES

1. Notices, consents, authorizations, approvals, instructions, waivers or other communications provided in this Agreement shall be in writing and transmitted to the Parties as follows:

To: The Authority

New York Power Authority
123 Main Street
White Plains, New York 10601
Email:
Facsimile: _____
Attention: Manager – Business Power Allocations and Compliance

To: The Customer

Petri Baking Products, Inc.
18 Main Street
Silver Creek, New York 14136
Email:
Facsimile:
Attention:

2. The foregoing notice/notification information pertaining to either Party may be changed by such Party upon notification to the other Party pursuant to Section XII.1.
3. Except where otherwise herein specifically provided, any notice, communication or request required or authorized by this Agreement by either Party to the other shall be deemed

properly given: (a) if sent by U.S. First Class mail addressed to the Party at the address set forth above; (b) if sent by a nationally recognized overnight delivery service, two (2) calendar days after being deposited for delivery to the appropriate address set forth above; (c) if delivered by hand, with written confirmation of receipt; (d) if sent by facsimile to the appropriate fax number as set forth above, with written confirmation of receipt; or (e) on the date of transmission if sent by electronic communication to the appropriate address as set forth above, with confirmation of receipt. Either Party may change the addressee and/or address for correspondence sent to it by giving written notice in accordance with the foregoing.

ARTICLE XIII

SUCCESSORS AND ASSIGNS; RESALE OF HYDROPOWER

1. This Agreement shall be binding upon, shall inure to the benefit of, and may be performed by, the legal successors and assigns of either Party hereto, provided that no assignment by either Party or any successor or assignee of such Party of its rights and obligations hereunder shall be made or become effective without the prior written consent of the other Party, which consent shall not be unreasonably withheld or conditioned. Notwithstanding the foregoing sentence, the Authority may require such approvals, and such consents and other agreements from the Customer and other parties, that the Authority determines are necessary in order to effectuate any such assignment.
2. The Customer may not transfer any portion of the Allocation to any other person, or a location different than the Facility, unless: (a) the Authority in its discretion authorizes the transfer Authority; (b) all other requirements applicable to a transfer, including board approvals, are satisfied; and (c) the transfer is effectuated in a form and subject to such terms and conditions approved by the Authority. Any purported transfer that does not comply with the foregoing requirements shall be invalid and constitute grounds for the Authority in its discretion to suspend Electric Service or terminate the Allocation and/or this Agreement.
3. The Customer may not sell any portion of the Allocation to any other person. Any purported sale shall be invalid and constitute grounds for the Authority in its discretion to suspend Electric Service, or terminate the Allocation and/or this Agreement.

ARTICLE XIV

MISCELLANEOUS

1. Choice of Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York to the extent that such laws are not inconsistent with the FERC License and the Niagara Redevelopment Act (16 USC §§836, 836a) and rulings by the IJC and without regard to conflicts of law provisions.

2. Venue

The Parties: (a) consent to the exclusive jurisdiction and venue of any state court within or

for Albany County, New York, with subject matter jurisdiction for adjudication of any claim, suit, action or any other proceeding in law or equity arising under, or in any way relating to this Agreement; (b) agree to accept service of process; and (c) will not raise any argument of inconvenient forum.

3. Previous Agreements; Modifications; and Interpretation

- a. This Agreement shall constitute the sole and complete agreement of the Parties hereto with respect to the sale of the Allocation and the subject matter of the Agreement, and supersedes all previous communications and agreements between the Parties, oral or written, with reference to the sale of the Allocation.
- b. No modifications of this Agreement shall be binding upon the Parties hereto or either of them unless such modification is in writing and is signed by a duly authorized officer of each of them.
- c. No provision shall be construed against a Party on the basis that such Party drafted such provision.

4. Waiver

Any waiver at any time by either the Authority or the Customer of their rights with respect to a default or of any other matter arising out of this Agreement shall not be deemed to be a waiver with respect to any other default or matter. No waiver by either Party of any rights with respect to any matter arising in connection with this Agreement shall be effective unless made in writing and signed by the Party making the waiver.

5. Severability and Voidability

If any term or provision of this Agreement shall be invalidated, declared unlawful or ineffective in whole or in part by an order of the FERC or a court of competent jurisdiction, such order shall not be deemed to invalidate the remaining terms or provisions hereof. Notwithstanding the preceding sentence, if any provision of this Agreement is rendered void or unenforceable or otherwise modified by a court or agency of competent jurisdiction, the entire Agreement shall, at the option of either Party and only in such circumstances in which such Party's interests are materially and adversely impacted by any such action, be rendered void and unenforceable by such affected Party.

ARTICLE XV
EXECUTION

To facilitate execution, this Agreement may be executed in as many counterparts as may be required, and it shall not be necessary that the signatures of, or on behalf of, each Party, or that the signatures of all persons required to bind any Party, appear on each counterpart; but it shall be sufficient that the signature of, or on behalf of, each Party, or that the signatures of the persons required to bind any Party, appear on one or more of the counterparts. All counterparts shall collectively constitute a single agreement. It shall not be necessary in making proof of this

Agreement to produce or account for more than a number of counterparts containing the respective signatures of, or on behalf of, all of the Parties hereto. The delivery of an executed counterpart of this Agreement as a PDF or similar file type transmitted via electronic mail, cloud based server, e-signature technology or similar electronic means shall be legal and binding and shall have the same full force and effect as if an original executed counterpart of this Agreement had been delivered.

[SIGNATURES FOLLOW ON NEXT PAGE]

AGREED:

PETRI BAKING PRODUCTS, INC.

By: _____

Title: _____

Date: _____

AGREED:

POWER AUTHORITY OF THE STATE OF NEW YORK

By: _____
John R. Koelmel, Chairman

Date: _____

SCHEDULE A
EXPANSION POWER AND/OR REPLACEMENT POWER ALLOCATIONS

| | | | | |
|---------------------------------------|-----------------------------------|--|----------------------------------|---|
| Customer: Petri Baking Products, Inc. | | | | |
| Type of Allocation | Allocation Amount (kW) | Facility and Address | Trustee Approval Date | Allocation Expiration Date |
| EP | 500 kW | 18 Main Street Silver Creek, New York 14136 | May 19, 2020 | Ten (10) years from the date of commencement of Electric Service |

SCHEDULE B
**SUPPLEMENTAL EXPANSION POWER AND/OR REPLACEMENT POWER
COMMITMENTS**

ARTICLE I
SPECIFIC SUPPLEMENTAL COMMITMENTS

1. Employment Commitments

- a. The Customer shall create and maintain the employment level set forth in the Appendix to this Schedule B (the “Base Employment Level”). Such Base Employment Level shall be the total number of full-time positions held by: (a) individuals who are employed by the Customer at Customer’s Facility identified in the Appendix to this Schedule, and (b) individuals who are contractors or who are employed by contractors of the Customer and assigned to the Facility identified in such Appendix (collectively, “Base Level Employees”). The number of Base Level Employees shall not include individuals employed on a part-time basis (less than 35 hours per week); provided, however, that two individuals each working 20 hours per week or more at such Facility shall be counted as one Base Level Employee.
- b. The Base Employment Level shall not be created or maintained by transfers of employees from previously held positions with the Customer or its affiliates within the State of New York, except that the Base Employment Level may be filled by employees of the Customer laid off from other Customer facilities for *bona fide* economic or management reasons.
- c. The Authority may consider a request to change the Base Employment Level based on a claim of increased productivity, increased efficiency or adoption of new technologies or for other appropriate reasons as determined by the Authority. Any such change shall be within Authority’s discretion.

2. Capital Investment Commitments

The Customer shall make the capital investments specified in the Appendix to this Schedule B.

3. Power Utilization

For each month the Authority provides Electric Service to the Customer, the Customer shall utilize the entire Allocation, as represented by the Billing Demand (as such term is described in Service Tariff No. WNY-2), provided, however, that if only part of the Allocation is being utilized in accordance with Schedule C, the Customer shall utilize such partial amount of the Allocation.

4. Energy Efficiency and Conservation Program

- a. The Customer shall implement an energy efficiency and conservation program at the Facility through either (a) enrollment of the Facility and participation in NYEM in accordance with a NYEM Agreement, or (b) one or more Physical Energy Audits of the Facility, or (c) a combination of such measures, in accordance with the provisions of this Article.
- b. The Authority shall transmit to the Customer a NYEM Agreement and an election form. The Customer shall elect to either (a) enroll the Facility and participate in NYEM for a three-year term (“NYEM Participation”) in accordance with the NYEM Agreement, or (b) perform a Physical Energy Audit of the Facility. The Customer shall make the election within sixty (60) days of its receipt of the Authority’s communication. If the Customer elects NYEM Participation, it shall execute and return the NYEM Agreement to the Authority with the election form, abide by the NYEM Agreement, and participate in NYEM at its own expense at the rate provided in the NYEM Agreement. If the Customer elects to perform a Physical Energy Audit, it shall perform the Physical Energy Audit within three (3) years of the Effective Date of this Agreement, at its own expense.
- c. The Authority shall, on or before the expiration of the three-year term of the NYEM Agreement, transmit to the Customer a NYEM Agreement specifying the terms and conditions that would apply to NYEM participation for a second term, and an election form. The Customer shall elect either (a) NYEM Participation for a second term, or (b) to perform a Physical Energy Audit of the Facility. The Customer shall make the election within sixty (60) days of its receipt of the Authority’s communication. If the Customer elects NYEM Participation, it shall execute and return the NYEM Agreement to the Authority with the election form, abide by the NYEM Agreement, and participate in NYEM at its own expense at the rate provided in the NYEM Agreement. If the Customer elects to perform a Physical Energy Audit, it shall perform the Physical Energy Audit during the calendar year that begins six years after of the Effective Date of this Agreement, at its own expense.
- d. The Authority may in its discretion waive the requirement for a Physical Energy Audit, or may agree to a limited energy audit of the Facility, where it determines that the Physical Energy Audit is unnecessary based on the age of the Facility, energy efficiency and conservation improvements made at the Facility, the length of the Allocation, or other considerations the Authority determines to be relevant.

ARTICLE II
RECORDKEEPING, REPORTING AND FACILITY ACCESS

1. Employment

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority, of the total number of Base Level Employees who are employed at or assigned to the Customer's Facility identified in the Appendix to this Schedule, as reported to the United States Department of Labor (or as reported in such other record as agreed upon by the Authority and the Customer). Such report shall separately identify the individuals who are employed by the Customer, and the individuals who are contractors or who are employed by contractors of the Customer, and shall be certified to be correct by an officer of the Customer, plant manager or such other person authorized by the Customer to prepare and file such report and shall be provided to the Authority on or before the last day of February following the end of the most recent calendar year. The Authority shall have the right to examine and audit on reasonable advance written notice all non-confidential written and electronic records and data concerning employment levels including, but not limited to, personnel records and summaries held by the Customer and its affiliates relating to employment in New York State.

2. Capital Investments

The Customer shall comply with the recordkeeping, recording and reporting requirements specified in the Appendix to this Schedule B.

3. Power Usage

A record shall be kept monthly by the Customer, and provided on a calendar year basis to the Authority on or before the last day of February following the end of the most recent calendar year, of the maximum demand utilized each month in the Facility receiving the power covered by the Agreement.

4. Energy Efficiency and Conservation Program

Upon the Authority's request, the Customer shall provide the Authority with (a) a copy of the results of any Physical Energy Audit performed at the Facility (or, at the Authority's option, a report describing the results), performed pursuant to this Article; and (b) a description of any energy efficiency or conservation measures that the Customer has implemented at the Facility in response to any Physical Energy Audit or as a result of NYEM Participation.

5. Facility Access

Notwithstanding any other provision of the Agreement, the Customer shall provide the Authority with such access to the Facility, and such documentation, as the Authority deems necessary to determine the Customer's compliance with the Customer's Supplemental Commitments specified in this Schedule B.

ARTICLE III

COMPLIANCE ACTION BY THE AUTHORITY

1. Employment

If the year-end monthly average number of employees is less than 90% of the Base Employment Level set forth in the Appendix to this Schedule B for the subject calendar year, the Authority may reduce the Contract Demand in accordance with the procedures provided in Section III.5 of this Schedule. The maximum amount of reduction will be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average monthly employment during the subject calendar year divided by the Base Employment Level. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, the Agreement shall automatically terminate.

2. Capital Investment Commitment

The Authority may reduce the Contract Demand as provided in the Appendix to this Schedule B if the Customer does not comply with the Capital Investment Commitment.

3. Power Utilization Level

If the average of the Customer's six (6) highest Billing Demands (as such term is described in Service Tariff No. WNY-2) for Expansion Power and/or Replacement Power is less than 90% of the Customer's Contract Demand in such calendar year the Authority may reduce the Contract Demand subject to in accordance with the procedures provide in Section III.5 of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the average of the six (6) highest Billing Demands for in such calendar year divided by the Contract Demand. Any such reduction shall be rounded to the nearest fifty (50) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.

4. Additional Compliance Action

In addition to the Authority's other rights and remedies provided in this Agreement, Service Tariff WNY-2 and the Rules, the Authority may suspend Electric Service to the Customer if the Customer does not comply with any of the requirements in Section I.4 or Article II of this Schedule B.

5. Notice of Intent to Reduce Contract Demand

In the event that the Authority determines that the Contract Demand will be wholly or partially reduced pursuant to Sections III.1, III.2, or III.3 of this Schedule B, the Authority shall provide the Customer with at least thirty (30) days prior written notice of the proposed reduction, specifying the amount and reason for the reduction.

Before implementing any reduction, the Authority may consider the Customer's scheduled or unscheduled maintenance, Facility upgrade periods, and the business cycle. If, at the end of the thirty (30) day notice period, the Authority determines that a reduction is warranted, it shall provide the Customer with notice of such determination and provide the Customer with sixty (60) days to present a proposed plan with actionable milestones to cure the deficiency. The Authority shall respond to the Customer concerning the acceptability of any proposed plan that is provided in accordance with this Section III.5 within thirty (30) days of the Authority's receipt of such proposed plan. It shall be within the Authority's discretion whether or not to accept the Customer's proposed plan, require a different plan, or implement the reduction of the Contract Demand.

APPENDIX TO SCHEDULE B

BASE EMPLOYMENT LEVEL

The Customer shall employ at least 85 full-time, permanent employees (“Base Employment Level”) at the Customer’s Facility. The Base Employment Level shall be maintained for the term of the Allocation in accordance with Article I of Schedule B.

CAPITAL INVESTMENT COMMITMENTS

1. **Annual Capital Investment Commitment** (if applicable, as specified below)
 - a. Each Reporting Year, the rolling average of the annual capital investments made by the Customer at the Facility (“Rolling Average”) shall total not less than N/A (the “Annual Capital Investment Commitment”). For purposes of this provision, “Rolling Average” means the three-year average comprised of (1) the total amount of capital investments (“Annual CI Expenditures”) made by the Customer at the Facility during the current Reporting Year, and (2) the Annual CI Expenditures made by the Customer at the Facility during the two prior Reporting Years.
 - b. Each year, the Customer shall record its Annual CI Expenditures for purposes of enabling the Authority to determine and verify the Rolling Average, which shall be provided to the Authority in a form specified by the Authority on or before the last day of February following the end of the most recent calendar year.
 - c. If the Customer’s Rolling Average as determined by the Authority is less than 90% of its Annual Capital Investment Commitment for the Reporting Year, the Contract Demand may be reduced by the Authority in accordance with the procedures provided in Section III.5 of this Schedule. The maximum amount by which the Authority may reduce the Contract Demand shall be determined by multiplying the Contract Demand by the quantity one minus the quotient of the Rolling Average divided by the Annual Capital Investment Commitment. Any such reduction shall be rounded to the nearest ten (10) kW. In the event of a reduction of the Contract Demand to zero, this Agreement shall automatically terminate.
2. **Expansion Project–Capital Investment Commitment** (if applicable, as specified below)
 - a. The Customer shall make a minimum capital investment of \$12,950,000 to construct, furnish and/or expand the Facility (“Expansion Project Capital Investment Commitment”). The Expansion Project Capital Investment Commitment is expected to consist of the following approximate expenditures on the items indicated:

| DESCRIPTION | EXPENDITURE |
|---|----------------------------|
| Purchase of building, associated properties, and necessary building improvements | \$2.8 million |
| Machinery and equipment purchases including coolers, freezers, ovens, air compressors, flour systems, heated tanks, mixers, forklifts, etc. | \$7.3 million |
| Startup costs and initial working capital | \$2.85 million |
| Total Minimum Expansion Project Capital Investment Commitment: | <u>\$12,950,000</u> |

Total Expansion Project Capital Investment Commitment:

- b. The Expansion Project Capital Investment Commitment shall be made, and the Facility shall be completed and fully operational, no later than May 19, 2023 (*i.e.*, within three (3) years of the date of the Authority's award of the Allocation). Upon request of the Customer, such date may be extended in the discretion of the Authority.

SCHEDULE C
TAKEDOWN SCHEDULE

SCHEDULE D
ZERO EMISSION CREDIT CHARGE

I. DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Schedule, shall have the meanings as set forth below. Capitalized terms not defined in this Schedule shall have the meaning ascribed to them elsewhere in the Agreement, in Service Tariff No. WNY-2, or in the Rules.

“Affected LSEs” has the meaning provided in Section II.2 of this Schedule D.

“CES Order” means the Order issued by the PSC entitled “Order Adopting a Clean Energy Standard, issued on August 1, 2016, in Case Nos. 15-E-0302 and 16-E-0270, and includes all subsequent orders amending, clarifying and/or implementing such Order or the RES.

“EP and RP Programs ZEC Costs” has the meaning provided in Section II.4.b of this Schedule D.

“Government Action” has the meaning provided in Section II.8 of this Schedule D.

“Load Serving Entity” or “LSE” has the meaning provided in the CES Order.

“NYSERDA” means the New York State Energy Research and Development Authority.

“Public Service Commission” means the New York State Public Service Commission.

“Renewable Energy Standard” or “RES” means the Renewable Energy Standard adopted by the State in the CES Order.

“RES Compliance Program” means a program or initiative that the Authority has adopted for the purpose of meeting the RES for the load that the Authority serves under the EP and RP power programs as authorized in the Power Authority Act.

“State Energy Plan” means the 2015 New York State Energy Plan as amended from time to time.

“Zero Emission Credit” or “ZEC” has the meaning provided in the CES Order.

“Zero Emission Credit Charge” or “ZEC Charge” means the charge to the Customer established in this Schedule D.

“ZEC Purchase Obligation” has the meaning provided in Section II.2 of this Schedule D.

“ZEC Program Year” has the meaning provided in Section II.2 of this Schedule D.

II. ZEC CHARGE

1. Notwithstanding any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules, as of January 1, 2019, the Customer shall be subject to a ZEC Charge as provided in this Schedule D. The ZEC Charge shall be in addition to all other charges, fees and assessments provided for in the Agreement, Service Tariff No. WNY-2 and the Rules. By accepting Electric Service under the Agreement, the Customer agrees to pay the ZEC Charge.
2. As provided in the CES Order, the Public Service Commission, as part of the CES and Tier 3 of the Renewable Energy Standard, imposed an obligation on Load Serving Entities that are subject to the CES Order (“Affected LSEs”) to purchase Zero Emission Credits from NYSERDA in an amount representing the Affected LSE’s proportional share of ZECs calculated on the basis of the amount of electric load the LSE serves in relation to the total electric load served by all Load Serving Entities in the New York Control area, to support the preservation of existing at risk nuclear zero emissions attributes in the State (the “ZEC Purchase Obligation”). The ZEC Purchase Obligation is implemented on the basis of program years running from April 1 through March 31 of each year (“ZEC Program Year”).
3. The ZEC Charge is part of a RES Compliance Program that the Authority has adopted for the purpose of supporting the CES and Tier 3 of the RES and implementing the EP and RP power programs in a manner that is consistent with the New York State Energy Plan. The Authority will comply with the CES and Tier 3 of the RES by applying a form of ZEC Purchase Obligation to the end-user load for which the Authority serves as a load serving entity, including the load that the Authority serves under the EP and RP power programs.
4. The ZEC Charge, which is intended to recover from the Customer costs that the Authority incurs for purchasing ZECs in quantities that are attributable to the Customer’s EP and/or RP load served under this Agreement, will be determined and assessed to the Customer as follows:
 - a. The cost of the total ZEC Purchase Obligation for all LSEs in the New York Control Area, including the Authority as a participating load serving entity, will be assessed pursuant to the methodology provided in the CES Order. The Authority will purchase its proportionate share of ZECs from NYSERDA based on the proportion of the forecasted total kilowatt-hours load served by

the Authority (i.e., total Authority LSE load) in relation to the forecasted total kilowatt-hours load served by all LSEs in the New York Control Area as provided in the CES Order. The ZEC Purchase Obligations may be based on initial load forecasts with reconciliations made at the end of each ZEC Program Year by NYSERDA.

- b. The Authority will allocate costs from its ZEC Purchase Obligation between its power programs/load for which it serves as load serving entity, including the EP and RP load that it serves (the “EP and RP Programs ZEC Costs”). Such allocation will be based on the forecasted kilowatt-hours load of the EP and RP programs to be served by the Authority in relation to the forecasted total kilowatt-hours load served by the Authority (total Authority LSE load) for each ZEC Program Year. In addition, any balance resulting from the ZEC Program Year-end reconciliation of ZEC Purchase Obligations will be allocated to the EP and RP power programs based on the proportion of the actual annual kilowatt-hours load served under such programs to total actual annual kilowatt-hours load served by the Authority (total Authority LSE load).
 - c. The Authority will allocate a portion of the EP and RP Programs ZEC Costs to the Customer as the ZEC Charge based on the proportion of the Customer’s actual kilowatt-hours load for the EP and/or RP purchased by the Customer to total kilowatt-hours load served by the Authority under the EP and RP power programs (i.e., EP and RP Programs level load). In addition, any balance resulting from the ZEC Program Year-end reconciliation of the ZEC Purchase Obligation referenced above will be passed through to the Customer based on the proportion of the Customer’s annual kilowatt-hours load purchased under this Agreement to total annual kilowatt-hours load served under the EP and RP power program by the Authority (EP and RP Programs level load). The ZEC Charge assessed to the Customer shall not include any costs resulting from the Authority’s inability to collect a ZEC Charge from any other Authority customer.
5. The Authority may, in its discretion, include the ZEC Charge as part of the monthly bills for Electric Service as provided for in the Agreement, or bill the Customer for the ZEC Charge pursuant to another Authority-established procedure.
6. The Authority may, in its discretion, modify the methodology used for determining the ZEC Charge and the procedures used to implement such ZEC Charge on a nondiscriminatory basis among affected EP and RP customers, upon consideration of such matters as Public Service Commission orders modifying or implementing the CES Order, guidance issued by the New York Department of Public Service, and other information that the Authority reasonably determines to be appropriate to the determination of such methodology. The Authority shall

provide Customer with reasonable notice of any modifications to the methodology or procedures used to determine and implement the ZEC Charge.

7. Nothing in this Schedule shall limit or otherwise affect the Authority's right to charge or collect from the Customer any rate, charge, fee, assessment, or tax provided for under any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules.
8. If the ZEC Purchase Obligation is modified or terminated by the Public Service Commission or other controlling governmental authority (collectively, "Government Action"), the Authority shall modify or terminate the ZEC Charge, and assess any additional charges or provide any credits to the Customer, to the extent that the Authority determines such actions to be appropriate based on such Government Action.

SCHEDULE E
MONTHLY RENEWABLE ENERGY CREDIT CHARGE

I. DEFINITIONS

When used with initial capitalization, whether singular or plural, the following terms, as used in this Schedule, shall have the meanings as set forth below. Capitalized terms not defined in this Schedule shall have the meaning ascribed to them elsewhere in the Agreement, in Service Tariff No. WNY-2, or in the Rules.

“Alternative REC Compliance Program” has the meaning provided in Section III.1 of this Schedule E.

“Annual REC Percentage Target” has the meaning provided in Section II.2 of this Schedule E.

“CES Order” means the Order issued by the Public Service Commission entitled “Order Adopting a Clean Energy Standard, issued on August 1, 2016, in Case Nos. 15-E-0302 and 16-E-0270, and includes all subsequent orders amending, clarifying and/or implementing such Order or the RES.

“Clean Energy Standard” or “CES” means the Clean Energy Standard adopted by the State in the CES Order.

“Load Serving Entity” has the meaning provided in the CES Order.

“Mandatory Minimum Percentage Proportion” has the meaning provided in the CES Order.

“Monthly Renewable Energy Credit Charge” or “Monthly REC Charge” means the monthly charge to the Customer established in this Schedule E.

“NYSERDA” means the New York State Energy Research and Development Authority.

“Public Service Commission” means the New York State Public Service Commission.

“Renewable Energy Credit” or “REC” refers to a qualifying renewable energy credit as described in the CES Order.

“State Energy Plan” means the 2015 New York State Energy Plan as amended from time to time.

“RES Compliance Program” means a program or initiative that the Authority has adopted for the purpose of meeting the RES for the load that the Authority serves under the EP and RP power programs as authorized in the Power Authority Act.

“Renewable Energy Standard” or “RES” means the Renewable Energy Standard adopted by the State in the CES Order.

“REC Compliance Measures” mean: (1) the Authority’s procurement of RECs from NYSERDA in accordance with NYSERDA procedures and/or the CES Order; (2) the Authority’s procurement of RECs from available REC markets; (3) the Authority’s procurement of RECs from sources other than those identified in items (1) and (2) of this definition, including through a procurement process adopted by the Authority; and/or (4) any other measure that the PCS authorizes a Load Serving Entity to implement for the purpose of meeting the applicable Mandatory Minimum Percentage Proportion.

“Total Monthly EP-RP Load” has the meaning provided in Section II.3.b of this Schedule E

“Total Monthly REC Costs” has the meaning provided in Section II.3.b of this Schedule E.

II. MONTHLY REC CHARGE

1. Notwithstanding any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules, as of January 1, 2019, the Customer shall be subject to a Monthly REC Charge as provided in this Schedule E. The Monthly REC Charge is in addition to all other charges, fees and assessments provided in the Agreement, Service Tariff No. WNY-2 and the Rules. By accepting Electric Service under the Agreement, the Customer agrees to pay the Monthly REC Charge.
2. The Monthly REC Charge is part of a RES Compliance Program that the Authority has adopted for the purpose of complying with the CES and Tier 1 of the RES and implementing the EP and RP power programs in a manner that is consistent with the New York State Energy Plan, pursuant to which the Authority will invest in new renewable generation resources to serve its EP and RP customers. Such investments will be made through the procurement of RECs through REC Compliance Measures in quantities that are intended to address the annual Mandatory Minimum Percentage Proportions as applied by the Authority to the total EP and RP load that the Authority will serve each calendar year (the “Annual REC Percentage Target”) for the purpose of ultimately meeting the RES.
3. The Monthly REC Charge, which is intended to recover from the Customer costs that the Authority incurs for implementing REC Compliance Measures that are attributable to the Customer’s EP and/or RP load served under this Agreement, will be determined and assessed to the Customer as follows:

- a. The Authority shall have the right, for each calendar year to implement such REC Compliance Measures as it determines in its discretion to be appropriate for the purpose of meeting the Annual REC Percentage Target for the total EP and RP load that it will serve during such calendar year.
 - b. The Authority will, for each month of each calendar year, calculate the total costs (“Total Monthly REC Costs”) that the Authority has incurred or estimates that it will incur from implementing RES Compliance Measures for the purpose of meeting the Annual REC Percentage Target for the total EP and RP kilowatt-hour load for the month (“Total Monthly EP-RP Load”). The Total Monthly REC Costs may be calculated based on forecasts of the Total Monthly EP-RP Load that the Authority expects to serve for the month, or on a lagged basis based on the actual Total Monthly EP-RP Load that the Authority served for the month.
 - c. Each month, the Authority will assess to the Customer, as a Monthly REC Charge, which will represent the Customer’s share of the Total Monthly REC Costs assessed to the Total Monthly EP-RP Load. The Monthly REC Charge will be assessed as the proportion of the Customer’s total kilowatt-hours load served by the Authority for such month to the Total Monthly EP-RP Load served by the Authority for such month, provided, however, that:
 - i. the Monthly REC Charge to the Customer shall not include any costs associated with the Authority’s inability to collect the Monthly REC Charge from other Authority customers; and
 - ii. the effective per-MWh rate of the Monthly REC Charge to the Customer averaged over the REC Program Year to which the Annual REC Percentage Target applies shall not exceed the per-MWh rate of a Monthly REC Charge based on NYSERDA’s published REC price for the REC Program Year.
4. The Authority may, in its discretion, include the Monthly REC Charge as part of the monthly bills for Electric Service as provided for in the Agreement, or bill the Customer for the Monthly REC Charge pursuant to another Authority-established procedure.
5. The Authority will, at the conclusion of each calendar year in which it assesses a Monthly REC Charge, conduct a reconciliation process based on the actual costs that it incurred for REC Compliance Measures and actual load served for the year, compared with cost or load estimates or forecasts, if any, that the Authority used to calculate the Customer’s Monthly REC Charges during the year. The Authority will issue a credit, or an adjusted final charge for the year, as appropriate, based on the results of such reconciliation process. Any such final charge shall be payable within the time frame applicable to the Authority’s bills

for Electric Service under this Agreement or pursuant to any other procedure established by the Authority pursuant to Section II.4 of this Schedule E.

6. Notwithstanding the provisions of Section II.3 of this Schedule E, if Electric Service for the Allocation is commenced after the Authority has implemented REC Compliance Measures for the year in which such Electric Service is commenced, and as a result the Customer's load cannot be accounted for in such REC Compliance Measures, the Authority may in its discretion implement separate REC Compliance Measures in order to meet the Annual REC Percentage Target for Customer's load for the year, and bill the Customer for the costs associated with such separate REC Compliance Measures.
7. Nothing in this Schedule shall limit or otherwise affect the Authority's right to charge or collect from the Customer, any rate, charge, fee, assessment, or tax provided for under any other provision of the Agreement, or any provision of Service Tariff No. WNY-2 or the Rules.

III. ALTERNATIVE REC COMPLIANCE PROGRAM

1. Nothing in this Schedule E shall be construed as preventing the Parties from entering into other agreements for an alternative arrangement for the Authority to meet the Annual REC Percentage Target with respect to the Customer's Allocation, including but not limited to Customer self-supply of RECs, alternative REC compliance programs and cost allocation mechanisms, in lieu of the Monthly REC Charge provided in this Schedule E (collectively, "Alternative REC Compliance Program").
2. The Authority shall communicate at least biennially with the Customer concerning implementation of the RES Compliance Program and potential Alternative REC Compliance Programs, if any, that the Authority is offering or expects to offer.



POWER AUTHORITY OF THE STATE OF NEW YORK

30 SOUTH PEARL STREET

ALBANY, NY 12207

Schedule of Rates for Sale of Firm Power Service to
Expansion Power and Replacement Power Customers
Located in Western New York

Service Tariff No. WNY-2

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Schedule of Rates for Firm Power Service

I. Applicability

To sales of Expansion Power and/or Replacement Power directly to a qualified business Customer for firm power service.

II. Abbreviations and Terms

- kW kilowatt(s)
- kW-mo. kilowatt-month
- kWh kilowatt-hour(s)
- MWh megawatt-hour(s)
- NYISO New York Independent System Operator, Inc. or any successor organization
- PAL New York Public Authorities Law
- OATT Open Access Transmission Tariff issued by the NYISO

Agreement: An executed written agreement between the Authority and the Customer for the sale of Expansion Power and/or Replacement Power to the Customer.

Annual Adjustment Factor or **AAF**: This term shall have the meaning set forth in Section V herein.

Authority: The Power Authority of the State of New York, a corporate municipal instrumentality and a political subdivision of the State of New York created pursuant to Chapter 772 of the New York Laws of 1931 and existing and operating under Title 1 of Article 5 of the PAL, also known as the “New York Power Authority.”

Customer: A business entity that has received an allocation of Expansion Power and/or Replacement Power, and that purchases Expansion Power and/or Replacement Power, directly from the Authority.

Electric Service: The power and energy provided to the Customer in accordance with the Agreement, this Service Tariff and the Rules.

Expansion Power or **EP** and/or **Replacement Power** or **RP**: Firm Power and Firm Energy made available under this Service Tariff by the Authority from the Project for sale to the Customer for business purposes pursuant to PAL § 1005(5) and (13).

Firm Power: Capacity (kW) that is intended to be always available from the Project subject to the curtailment provisions set forth in the Agreement between the Authority and the Customer and this Service Tariff. Firm Power shall not include peaking power.

Firm Energy: Energy (kWh) associated with Firm Power.

Load Serving Entity or **LSE**: This term shall have the meaning set forth in the Agreement.

Load Split Methodology or **LSM**: A type of billing methodology applicable to a Customer's Allocation which determines how a Customer's total metered usage is apportioned between the power and energy supplied by the Allocation and the Customer's other source of electricity supply, if any. LSM is usually provided for in an agreement between the Authority and the Customer's local electric utility, an agreement between the Authority and the Customer, or an agreement between the Authority, the Customer and the Customer's local electric utility. The load split methodology is often designated as "Load Factor Sharing" or "LFS", "First through the Meter" or "FTM", "First through the Meter Modified" or "FTM Modified", or "Replacement Power 2" or "RP 2".

Project: The Authority's Niagara Power Project, FERC Project No. 2216.

Rate Year or **RY**: The period from July 1 through June 30. For example, RY 2018 refers to July 1, 2018 through June 30, 2019.

Rules: The Authority's rules and regulations set forth in 21 NYCRR § 450 *et seq.*, as they may be amended from time to time.

Service Tariff: This Service Tariff No. WNY-2.

All other capitalized terms and abbreviations used in this Service Tariff but not defined in this Section or other provisions of this Service Tariff shall have the same meaning as set forth in the Agreement.

III. Monthly Rates and Charges

A. Expansion Power (EP) and Replacement Power (RP) Base Rates

The rates to be charged to the Customer by the Authority shall be as follows:

| Billing Period | Demand (\$/kW) | Energy (\$/MWh) |
|---------------------|----------------|-----------------|
| January – June 2019 | 7.60 | 13.00 |

1. For RY 2019 (July 2019 through June 2020 Billing Periods), 50% of the Annual Adjustment Factor ("AAF"), as described in Section V, will be applied to the demand and energy rates stated in the table above.
2. For RY 2020 (July 2020 through June 2021 Billing Periods) and each Rate Year thereafter, the AAF will be applied to the then-effective base rates for demand and energy in accordance with Section V.

B. EP and RP Rates no Lower than Rural/Domestic Rate

At all times the applicable base rates for demand and energy determined in accordance with Sections III.A and V of this Service Tariff shall be no lower than the rates charged by the Authority for the sale of hydroelectricity for the benefit of rural and domestic customers receiving service in accordance with the Niagara Redevelopment Act, 16 U.S.C. § 836(b)(1) (the "Rural/Domestic Rate"). This provision shall be implemented as follows: if the base rates, as determined in accordance with Sections III.A and V of this Service Tariff, are lower than the Rural/Domestic Rate on an average \$/MWh basis, each set of rates measured at 80% load factor which is generally regarded as representative for EP and RP Customers, then the base rates determined under Sections III.A and V of this Service Tariff will be revised to make them equal to the Rural/Domestic Rate on an average \$/MWh basis. However, the base rates as so revised will have no effect until such time as these base rates are lower than the Rural/Domestic Rate.

C. Monthly Base Rates Exclude Delivery Service Charges

The monthly base rates set forth in this Section III exclude any applicable costs for delivery services provided by the local electric utility.

D. Minimum Monthly Charge

The Minimum Monthly Charge shall equal the product of the demand charge and the Contract Demand (as defined herein). Such Minimum Monthly Charge shall be in addition to any NYISO Charges or Taxes (each as defined herein) incurred by the Authority with respect to the Customer's Allocation.

E. Estimated Billing

If the Authority, in its discretion, determines that it lacks reliable data on the Customer's actual demand and/or energy usage for a Billing Period during which the Customer receives Electric Service from the Authority, the Authority shall have the right to render a bill to the Customer for such Billing Period based on estimated demand and estimated usage ("Estimated Bill").

For the purpose of calculating a Billing Demand charge for an Estimated Bill, the demand charge will be calculated based on the Load Split Methodology that is applicable to the Customer as follows:

- For Customers whose Allocation is subject to a Load Factor Sharing/LFS LSM, the estimated demand (kW) will be calculated based on an average of the Customer's Billing Demand (kW) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated demand (kW) value for the Estimated Bill will equal the Customer's takedown (kW) amount.
- For Customers whose Allocation is subject to a First through the Meter/ FTM, FTM Modified, or RP 2 LSM, the estimated demand (kW) value will equal the Customer's takedown (kW) amount.

For the purpose of calculating a Billing Energy charge for an Estimated Bill, the energy charge will be calculated based on the Customer's Load Split Methodology as follows:

- For Customers whose Allocation is subject to a Load Factor Sharing/LFS LSM, the estimated energy (kWh) will be based on the average of the Customer's Billing Energy (kWh) values for the previous three (3) consecutive Billing Periods. If such historical data is not available, then the estimated energy value (kWh) will be equal to the takedown (kW) amount at 70 percent load factor for that Billing Period.
- For Customers whose Allocation is subject to a First through the Meter/FTM, FTM Modified, or RP 2 LSM, the estimated energy (kWh) will be equal to the takedown (kW) amount at 100 percent load factor for that Billing Period.

If data indicating the Customer's actual demand and usage for any Billing Period in which an Estimated Bill was rendered is subsequently provided to the Authority, the Authority will make necessary adjustments to the corresponding Estimated Bill and, as appropriate, render a revised bill (or provide a credit) to the Customer.

The Minimum Monthly Charge provisions of Section III.D shall apply to Estimated Bills.

The Authority's discretion to render Estimated Bills is not intended and shall not be construed to limit the Authority's rights under the Agreement.

F. Adjustments to Charges

In addition to any other adjustments provided for in this Service Tariff, in any Billing Period, the Authority may make appropriate adjustments to billings and charges to address such matters as billing and payment errors, and the receipt of actual, additional, or corrected data concerning Customer energy or demand usage.

G. Billing Period

The Billing Period is any period of approximately thirty (30) days, generally ending with the last day of each calendar month but subject to the billing cycle requirements of the local electric utility in whose service territory the Customer's facilities are located.

H. Billing Demand

Billing Demand shall be determined by applying the applicable billing methodology to total meter readings during the Billing Period. See Section IV.E, below.

I. Billing Energy

Billing Energy shall be determined by applying the applicable billing methodology to total meter readings during the Billing Period. See Section IV.E, below.

J. Contract Demand

The Contract Demand will be the amount of Expansion Power and/or Replacement Power, not to exceed the Allocation, provided by the Authority to the Customer in accordance with the Agreement

IV. General Provisions

A. Character of Service

Alternating current; sixty cycles, three-phase.

B. Availability of Energy

1. Subject to Section IV.B.2, the Authority shall provide to the Customer in any Billing Period Firm Energy associated with Firm Power. The offer of Firm Energy for delivery shall fulfill the Authority's obligations for purposes of this provision whether or not the Firm Energy is taken by the Customer.
2. In the event of an Adverse Water Condition, the rights and obligations of the Customer and Authority, including but not limited to such matters as Substitute Energy, Customer-Arranged Energy and responsibility for payment of costs associated therewith, will be governed by Article IX of the Agreement.

C. Delivery

For the purpose of this Service Tariff, Firm Power and Firm Energy shall be deemed to be offered when the Authority is able to supply Firm Power and Firm Energy to the Authority's designated NYISO load bus. If, despite such offer, there is a failure of delivery caused by the Customer, NYISO or local electric utility, such failure shall not be subject to a billing adjustment pursuant to Section 454.6(d) of the Rules.

D. Adjustment of Rates

To the extent not inconsistent with the Agreement, the base rates contained in this Service Tariff may be revised from time to time on not less than thirty (30) days written notice to the Customer.

E. Billing Methodology

Unless otherwise specified in the Agreement, the following provisions shall apply:

1. The billing methodology used to determine the amount of Firm Power and Firm Energy to be billed to the Customer related to its Allocation shall be Load Factor Sharing (“LFS”) in a manner consistent with the Agreement and any applicable delivery agreement between the Authority and the Customer’s local electric utility or both as determined by the Authority. An alternative billing methodology may be used provided the Customer and the Authority agree in writing and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary.
2. **Billing Demand** –The Billing Demand charged by the Authority to each Customer will be the highest 15 or 30-minute integrated demand, as determined by the Customer’s local electric utility, during each Billing Period recorded on the Customer’s meter multiplied by a percentage based on the LFS methodology, unless the Customer and the Authority agree in writing to an alternative billing methodology and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary. Billing Demand may not exceed the amount of the Contract Demand.
3. **Billing Energy** –The kilowatt-hours charged by the Authority to each Customer will be the total number of kilowatt-hours recorded on the Customer’s meter for the Billing Period multiplied by a percentage based on the LFS methodology, unless the Customer and the Authority agree in writing to an alternative billing methodology and the Customer’s local electric utility provides its consent if the Authority determines that such consent is necessary.
4. With regard to LFS methodology calculations:
 - a. For every hour of the Billing Period, the Customer receives hydropower energy (Firm Energy) equal to the hourly metered load multiplied by the ratio of Customer’s Contract Demand divided by the maximum hourly metered load value recorded in a given Billing Period, such ratio not to exceed the value of 1.
 - b. When the maximum hourly metered demand for the Billing Period is less than or equal to the Contract Demand, all of the Customer’s metered load will be supplied by Firm Energy.
 - c. When the maximum hourly metered demand for the Billing Period is greater than the Contract Demand, the portion of the Customer’s metered load to be supplied by Firm Energy is as follows:
 - i. For Customer with hourly billing: the sum of the values, for each hour of the Billing Period, of the Contract Demand divided by the maximum hourly metered demand in the Billing Period multiplied by the hourly metered energy consumption.
 - ii. For Customer with monthly billing: the Contract Demand divided by the maximum hourly metered demand in the Billing Period multiplied by the total metered energy consumption during the Billing Period.
 - d. All demand values will be adjusted for losses.

F. Payment by Customer to Authority

1. Demand and Energy Charges, Taxes

The Customer shall pay the Authority for Firm Power and Firm Energy during any Billing Period the higher of either (i) the sum of (a), (b) and (c) below, or (ii) the Minimum Monthly Charge (as defined herein):

- a. The demand charge per kilowatt for Firm Power specified in this Service Tariff or any modification thereof applied to the Customer's Billing Demand (as defined in Section IV.E, above) for the Billing Period; and
- b. The energy charge per MWh for Firm Energy specified in this Service Tariff or any modification thereof applied to the Customer's Billing Energy (as defined in Section IV.E, above) for the Billing Period; and
- c. A charge representing reimbursement to the Authority for all applicable Taxes incurred by the Authority as a result of providing Expansion Power and/or Replacement Power allocated to the Customer.

2. Transmission Charge

The Customer shall compensate the Authority for all transmission costs incurred by the Authority with respect to the Allocation, including such costs that are charged pursuant to the OATT.

3. NYISO Transmission and Related Charges

The Customer shall compensate the Authority for the following NYISO transmission and related charges (collectively, "NYISO Charges") assessed on the Authority for services provided by the NYISO pursuant to its OATT or other tariffs (as the provisions of those tariffs may be amended and in effect from time to time) associated with providing Electric Service to the Customer:

- A. Ancillary Services 1 through 6 and any new ancillary services as may be defined and included in the OATT from time to time;
- B. Marginal losses;
- C. The New York Power Authority Transmission Adjustment Charge ("NTAC");
- D. Congestion costs inclusive of any rents collected or owed due to any associated grandfathered transmission congestion contracts as provided in Attachment K of the OATT;
- E. Any and all other charges, assessments, or other amounts associated with deliveries to Customers or otherwise associated with the Authority's responsibilities as a Load Serving Entity for the Customers that are assessed on the Authority by the NYISO under the provisions of its OATT or under other applicable tariffs; and

- F. Any charges assessed on the Authority with respect to the provision of Electric Service to Customers for facilities needed to maintain reliability and incurred in connection with the NYISO's Comprehensive System Planning Process (or similar reliability-related obligations incurred by the Authority with respect to Electric Service to the Customer), applicable tariffs, or required to be paid by the Authority in accordance with law, regardless of whether such charges are assessed by the NYISO or another party.

The NYISO Charges, if any, incurred by the Authority on behalf of the Customer, are in addition to the Authority production charges that are charged to the Customer in accordance with other provisions of this Service Tariff.

The method of billing NYISO charges to the Customer will be based on Authority's discretion.

4. Taxes Defined

Taxes shall be any adjustment as the Authority deems necessary to recover from the Customer any taxes, assessments or any other charges mandated by federal, state or local agencies or authorities that are levied on the Authority or that the Authority is required to collect from the Customer if and to the extent such taxes, assessments or charges are not recovered by the Authority pursuant to another provision of this Service Tariff.

5. Substitute Energy

The Customer shall pay for Substitute Energy, if applicable, as specified in the Agreement.

6. Payment Information

Bills computed under this Service Tariff are due and payable by electronic wire transfer in accordance with the Rules. Such wire transfer shall be made to J P Morgan Chase NY, NY / ABA021000021 / NYPA A/C # 008-030383, unless otherwise indicated in writing by the Authority. The Authority may in its discretion change the foregoing account and routing information upon notice to the Customer.

7. Billing Disputes

In the event that there is a dispute on any items of a bill rendered by the Authority, the Customer shall pay such bill in full. If necessary, any adjustments will be made thereafter.

G. Rendition and Payment of Bills

1. The Authority will render bills to the Customer for Electric Service on or before the tenth (10th) business day of the month for charges due for the previous Billing Period. Such bills shall include charges for Electric Service, NYISO Charges associated with the Allocation (subject to adjustment consistent with any later NYISO re-billings to the Authority), and all other applicable charges, and are subject to adjustment as provided for in the Agreement, the Service Tariff and the Rules.
2. The Authority will charge and collect from the Customer all Taxes (including local, state and federal taxes) the Authority determines are applicable, unless the Customer furnishes the Authority with proof satisfactory to the Authority that (i) the Customer is exempt from the payment of any such Taxes, and/or (ii) the Authority is not obligated to collect such Taxes from the Customer. If the Authority is not collecting Taxes from the Customer based on the circumstances described in (i) or (ii) above, the Customer shall immediately inform the Authority of any change in circumstances relating to its tax status that would require the Authority to charge and collect such Taxes from the Customer.
3. Unless otherwise agreed to by the Authority and the Customer in writing, the Authority will render bills to the Customer electronically.
4. Payment of bills by the Customer shall be due and payable by the Customer within twenty (20) days of the date the Authority renders the bill.
5. Except as otherwise agreed by the Authority in writing, if the Customer fails to pay any bill when due an interest charge of two percent of the amount unpaid will be added thereto as liquidated damages, and thereafter, as further liquidated damages, an additional interest charge of one and one-half percent of the sum unpaid shall be added on the first day of each succeeding Billing Period until the amount due, including interest, is paid in full.
6. If at any time after commencement of Electric Service the Customer fails to make complete payment of any two (2) bills for Electric Service when such bills become due pursuant to Agreement, the Authority shall have the right to require that the Customer deposit with the Authority a sum of money in an amount equal to all charges that would be due under this Agreement for Electric Service for two (2) consecutive calendar months as estimated by the Authority. Such deposit will be deemed security for the payment of unpaid bills and/or other claims of the Authority against the Customer upon termination of Electric Service. The failure or refusal of the Customer to provide the deposit within thirty (30) days of a request for such deposit will be grounds for the Authority in its discretion to suspend Electric Service to the Customer or terminate the Agreement.

Unless otherwise agreed to by the Authority and the Customer in writing, in the event the Customer disputes any item of any bill rendered by Authority, the Customer shall pay such bill in full within the time provided for by this Agreement, and adjustments, if appropriate, will be made thereafter.

H. Adjustment of Charges – Distribution Losses

The Authority will make appropriate adjustments to compensate for distribution losses of the local electric utility.

I. Conflicts

In the event of any inconsistencies, conflicts, or differences between the provisions of this Service Tariff and the Rules, the provisions of this Service Tariff shall govern. In the event of any inconsistencies, conflicts or differences between the provisions of the Agreement and this Service Tariff or the Rules, the provisions of the Agreement shall govern.

V. Annual Adjustment Factor

A. Adjustment of Rates

1. The AAF will be based upon a weighted average of three indices described below. For each new Rate Year, the index value for the latest available calendar year ("Index Value for the Measuring Year") will be compared to the index value for the calendar year immediately preceding the latest available calendar year (the Index Value for the Measuring Year -1"). The change for each index will then be multiplied by the indicated weights. As described in detail below, these products are then summed, producing the AAF. The AAF will be multiplied by the base rate for the current Rate Year to produce the base rates for the new Rate Year, subject to a maximum adjustment of $\pm 5.0\%$ (" $\pm 5\%$ Collar"). Amounts outside the $\pm 5\%$ Collar shall be referred to as the "Excess."

Index 1, "BLS Industrial Power Price" (35% weight): The average of the monthly Producer Price Index for Industrial Electric Power, commodity code number 0543, not seasonally adjusted, as reported by the U.S. Department of Labor, Bureau of Labor Statistics ("BLS") electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 1, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

Index 2, "EIA Average Industrial Power Price" (40% weight): The average weighted annual price (as measured in cents/kWh) for electric sales to the industrial sector in the ten states of CT, MA, ME, NH, NJ, NY, OH, PA, RI and VT ("Selected States") as reported by Coal and Electric Data and Renewables Division; Office of Coal, Nuclear, Electric and Alternate Fuels; Energy Information Administration ("EIA"); U.S. Department of Energy Form EIA-861 Final Data File. For Index 2, the Index Value for the Measuring Year will be the index for the calendar year two years preceding July 1 of the new Rate Year.

Index 3, "BLS Industrial Commodities Price Less Fuel" (25% weight): The monthly average of the Producer Price Index for Industrial Commodities less fuel, commodity code number 03T15M05, not seasonally adjusted, as reported by the U.S. Department of Labor, BLS electronically on its internet site and consistent with its printed publication, "Producer Price Index Detailed Report". For Index 3, the Index Value for the Measuring Year will be the index for the calendar year immediately preceding July 1 of the new Rate Year.

2. Annual Adjustment Factor Computation Guide

- Step 1: For each of the three Indices, divide the Index Value for Measuring Year by the Index Value for the Measuring Year-1.
- Step 2: Multiply the ratios determined in Step 1 by percentage weights for each Index. Sum the results to determine the weighted average. This is the AAF.
- Step 3: Commencing RY 2014, modifications to the AAF will be subject to $\pm 5\%$ Collar, as described below.
- a) When the AAF falls outside the $\pm 5\%$ Collar, the Excess will be carried over to the subsequent RY. If the AAF in the subsequent RY is within the $\pm 5\%$ Collar, the current RY Excess will be added to/subtracted from the subsequent Rate Year's AAF, up to the $\pm 5\%$ Collar.

- b) Excesses will continue to accrue without limit and carry over such that they will be added to/subtracted from the AAF in any year where the AAF is within the $\pm 5\%$ Collar.

Step 4: Multiply the current Rate Year base rate by the AAF calculated in Step 2 to determine the new Rate Year base rate.

The foregoing calculation shall be performed by the Authority consistent with the sample presented in Section V.B below.

3. Subject to the provisions of Section III.A of this Service Tariff, the Authority shall provide the Customer with notice of any adjustment to the current base rate per the above and with all data and calculations necessary to compute such adjustment by June 15th of each year to be effective on July 1 of such year, commencing in 2014. The values of the latest officially published (electronically or otherwise) versions of the indices and data provided by the BLS and EIA as of June 1 shall be used notwithstanding any subsequent revisions to the indices.
4. If during the term of the Agreement any of the three above indices ceases to be available or ceases to be reflective of the relevant factors or of changes which the indices were intended to reflect, the Customer and the Authority may mutually select a substitute Index. The Customer and the Authority agree to mutually select substitute indices within 90 days, once one of them is notified by the other that the indices are no longer available or no longer reflect the relevant factors or changes which the indices were intended to reflect. Should the 90-day period cover a planned July 1 rate change, the current base rates will remain in effect until substitute indices are selected and the adjusted rates based on the substitute indices will be retroactive to the previous July 1. If the Customer and Authority are unable to reach agreement on substitute indices within the 90-day period, the Customer and the Authority agree to substitute the mathematic average of the PPI—Intermediate Materials, Supplies and Components (BLS Series ID WPUSOP2000) and the PPI-- Finished Goods (BLS Series ID WPUSOP3000) indices for one or more indices that have ceased to be available or reflective of their intended purpose and shall assume the percentage weighting(s) of the one or more discontinued indices as indicated in Section V.A.1.

B. Sample Computation of the AAF (hypothetical values for July 1, 2014 implementation):

STEP 1

Determine the Index Value for the Measuring Year (MY) and Measuring Year - 1 (MY-1) for Each Index

- Index 1 - Producer Price Index, Industrial Power

| | Measuring Year <u>(2013)</u> | Measuring Year - 1 <u>(2012)</u> |
|------------------|------------------------------------|--|
| January | 171.2 | 167.8 |
| February | 172.8 | 167.6 |
| March | 171.6 | 168.2 |
| April | 173.8 | 168.6 |
| May | 175.1 | 171.6 |
| June | 185.7 | 180.1 |
| July | 186.4 | 182.7 |
| August | 184.7 | 179.2 |
| September | 185.5 | 181.8 |
| October | 175.5 | 170.2 |
| November | 172.2 | 168.8 |
| December | 171.8 | 166.6 |
| Average | 177.2 | 172.8 |
| Ratio of MY/MY-1 | | 1.03 |

- Index 2 – EIA Industrial Rate

| <u>State</u> | <u>Revenues</u> ((\$000s)) | <u>Sales</u> (MWh) | <u>Avg. Rate</u> (cents/kWh) |
|------------------------------|-------------------------------|-----------------------|---------------------------------|
| <u>Measuring Year (2012)</u> | | | |
| CT | 590,972 | 6,814,757 | |
| MA | 1,109,723 | 13,053,806 | |
| ME | 328,594 | 4,896,176 | |
| NH | 304,363 | 2,874,495 | |
| NJ | 1,412,665 | 15,687,873 | |
| NY | 2,001,588 | 26,379,314 | |
| OH | 3,695,978 | 78,496,166 | |
| PA | 3,682,192 | 63,413,968 | |
| RI | 152,533 | 1,652,593 | |
| VT | <u>155,903</u> | <u>2,173,679</u> | |
| TOTAL | 13,434,511 | 215,442,827 | 6.24 |

Measuring Year -1 (2011)

| | | | |
|-------|----------------|------------------|-------------|
| CT | 579,153 | 6,678,462 | |
| MA | 1,076,431 | 12,662,192 | |
| ME | 310,521 | 4,626,886 | |
| NH | 298,276 | 2,817,005 | |
| NJ | 1,370,285 | 15,217,237 | |
| NY | 1,891,501 | 24,928,452 | |
| OH | 3,622,058 | 76,926,243 | |
| PA | 3,571,726 | 61,511,549 | |
| RI | 144,144 | 1,561,700 | |
| VT | <u>152,785</u> | <u>2,130,205</u> | |
| TOTAL | 13,016,880 | 209,059,931 | 6.23 |

Ratio of MY/MY-1 **1.00**

- Index 3 – Producer Price Index, Industrial Commodities Less Fuel

| | Measuring Year (2013) | Measuring Year -1 (2012) |
|------------------|-----------------------------|--------------------------------|
| January | 190.1 | 187.2 |
| February | 190.9 | 188.0 |
| March | 191.6 | 188.7 |
| April | 192.8 | 189.9 |
| May | 194.7 | 191.8 |
| June | 195.2 | 192.3 |
| July | 195.5 | 192.3 |
| August | 196.0 | 193.1 |
| September | 196.1 | 193.2 |
| October | 196.2 | 193.8 |
| November | 196.6 | 193.7 |
| December | 196.7 | 194.0 |
| Average | 194.4 | 191.5 |
| Ratio of MY/MY-1 | | 1.02 |

STEP 2

Determine AAF by Summing the Weighted Indices

| <u>Index</u> | <u>Ratio of MY to MY-1</u> | <u>Weight</u> | <u>Weighted Factors</u> |
|--------------------------------------|--------------------------------|---------------|-----------------------------|
| PPI Industrial Power | 1.03 | 0.35 | 0.361 |
| EIA Industrial Rate | 1.00 | 0.40 | 0.400 |
| PPI Industrial Commodities less fuel | 1.02 | 0.25 | <u>0.255</u> |
| AAF | | | 1.016 |

STEP 3

Apply Collar of $\pm 5.0\%$ to Determine the Maximum/Minimum AAF.

$-5.0\% < 1.6\% < 5.0\%$; collar does not apply, assuming no cumulative excess.

STEP 4

Apply AAF to Calculate the New Rate Year Base Rate

| | <u>Demand</u> \$/kW-mo. | <u>Energy</u> \$/MWh |
|-----------------------------|----------------------------|-------------------------|
| Current Rate Year Base Rate | 7.56 | 12.91 |
| New Rate Year Base Rate | 7.68 | 13.12 |

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 | Lockheed Martin Corporation | Liverpool | Onondaga | Central New York | NGRID | Manufacturer of aerospace & defense industry products | 2,860 | 2,860 | 1,573 | \$13,000,000 | | 7 |
| | Central New York Region Sub-totals: | | | | | | 2,860 | 2,860 | 1,573 | \$13,000,000 | | |
| | | | | | | | | | | | | |
| 2 | Optimax Systems, Inc. | Ontario | Wayne | Finger Lakes | RGE | Manufacturer of high-precision optical components | 310 | 310 | 250 | \$7,000,000 | | 7 |
| | Finger Lakes Region Sub-totals: | | | | | | 310 | 310 | 250 | \$7,000,000 | | |
| | | | | | | | | | | | | |
| 3 | Canon U.S.A., Inc. | Melville | Suffolk | Long Island | LIPA | Corporate offices for digital imaging solutions company | 1,740 | 1,740 | 1,450 | \$2,500,000 | | 7 |
| 4 | Framerica Corporation | Yaphank | Suffolk | Long Island | LIPA | Manufacturer of picture frame & architectural moulding | 496 | 496 | 135 | \$650,000 | | 7 |
| 5 | GKN Aerospace Monitor, Inc. | Amityville | Suffolk | Long Island | LIPA | Manufacturer of aerospace-related structural components | 926 | 926 | 312 | \$4,200,000 | (1) | 7 |
| 6 | Hanan Products Company, Inc. | Hicksville | Nassau | Long Island | LIPA | Manufacturer of whipped topping, icing, & filling | 126 | 126 | 24 | \$200,000 | | 7 |
| 7 | Printex Transparent Packaging, Inc. | Islandia | Suffolk | Long Island | LIPA | Manufacturer of packaging products | 70 | 70 | 36 | \$100,000 | | 7 |
| | Long Island Region Sub-totals: | | | | | | 3,358 | 3,358 | 1,957 | \$7,650,000 | | |
| | | | | | | | | | | | | |
| 8 | Montefiore Medical Center | Bronx | Bronx | New York City | CONED | Hospital & healthcare services | 1,020 | 1,020 | 16,128 | \$374,613,676 | | 7 |
| 9 | The Trustees of Columbia University in the City of New York | New York | New York | New York City | CONED | Institution of higher education | 5,000 | 5,000 | 9,000 | \$140,892,903 | | 7 |
| | New York City Region Sub-totals: | | | | | | 6,020 | 6,020 | 25,128 | \$515,506,579 | | |
| | | | | | | | | | | | | |
| 10 | Huron Real Estate Associates, LLC | Endicott | Broome | Southern Tier | NYSEG | Real estate leasing & property management services | 10,000 | 10,000 | 1,890 | \$6,000,000 | | 7 |
| | Southern Tier Region Sub-totals: | | | | | | 10,000 | 10,000 | 1,890 | \$6,000,000 | | |

| | | | | |
|--------|--------|--------|--------|---------------|
| Totals | 22,548 | 22,548 | 30,798 | \$549,156,579 |
|--------|--------|--------|--------|---------------|

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) | The company's extension-related job commitment is below the evaluation threshold as compared to their original employment commitment. However, at this time, a reduction to the extension kW amount is not being recommended. | | | | | | | | | | | |

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 | 170 ⁽¹⁾ | \$2,000,000 | 7 |
| 2 | Kaleida Health | Amherst, Buffalo, North Tonawanda, & Williamsville | Erie & Niagara | Western New York | NGRID | Hospitals & healthcare services | 4,176 ⁽²⁾ | 5,358 | \$75,000,000 | 7 |

- (1) Represents modified/corrected amount. Based on this change, the company's extension-related job commitment is below the evaluation threshold as compared to its original employment commitment. However, at this time, a reduction to the extension kW amount is not being recommended.
- (2) Represents modified/corrected amount. The customer was previously extended for an RNY Power allocation in the amount of 3,636 kW as a campus setting which includes facilities in Buffalo, North Tonawanda, and Williamsville. It was determined that the customer needed additional RNY Power, primarily associated with a separate site, which is the basis of the modification presented herein.

| Line | Company | City | County | Economic Development Region | IOU | Description | kW Request | kW Recommendation | Jobs Retained | Capital Investment (\$) | | Contract Term (years) |
|------|-------------------------------------|-----------|---------|-----------------------------------|-------|------------------------------------|---------------|----------------------|------------------|----------------------------|-----|-----------------------------|
| 1 | Karp Associates Inc. | Melville | Suffolk | Long Island | LIPA | Manufacturer of access doors | 290 | 56 | 145 | \$4,000,000 | (1) | 7 |
| | Long Island Region Sub-totals: | | | | | | | 56 | 45 | \$4,000,000 | | |
| | | | | | | | | | | | | |
| 2 | Cascades Holding US Inc. | Lancaster | Erie | Western New York | NYSEG | Manufacturer of corrugated cartons | 506 | 250 | 75 | \$4,180,716 | | 7 |
| | Western New York Region Sub-totals: | | | | | | | 250 | 75 | \$4,180,716 | | |

Totals

| | | |
|-----|-----|-------------|
| 306 | 120 | \$8,180,716 |
|-----|-----|-------------|

(1) The applicant was previously approved for an RNY Power allocation. It is now being recommended for an additional large business retention-based allocation to accommodate load growth, which incorporates energy efficiency improvements, and additional employment commitments.

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 | Crescent Packing Corp. | Farmingdale | Suffolk | Long Island | LIPA | Wholesale meat distributor | 278 | 136 | 51 | 1 | \$1,000,000 | | 7 |
| | Long Island Region Sub-totals: | | | | | | | 136 | 51 | 1 | \$1,000,000 | | |
| | | | | | | | | | | | | | |
| 2 | The New York and Presbyterian Hospital | New York | New York | New York City | CONED | Hospital & healthcare services | 1,936 | 646 | 1,114 | 0 | \$40,575,000 | (1) | 7 |
| | New York City Region Sub-totals: | | | | | | | 646 | 1,114 | 0 | \$40,575,000 | | |

Retention-Based Totals

| | | | |
|-----|-------|---|--------------|
| 782 | 1,165 | 1 | \$41,575,000 |
|-----|-------|---|--------------|

(1) The applicant operates under the name "NewYork-Presbyterian Lower Manhattan Hospital" which is a separate facility from other New York Presbyterian-affiliated sites currently receiving RNY Power allocations.

| 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. |

Procurement (Services) and Other Contracts – Awards
(For Description of Contracts See "Discussion")

EXHIBIT "A"
May 19, 2020

| <u>Plant Site</u> | <u>Company Contract #</u> | <u>Start of Contract</u> | <u>Description of Contract</u> | <u>Closing Date</u> | <u>Award Basis¹ Contract Type²</u> | <u>Compensation Limit</u> | <u>Amount Expended To Date</u> | <u>Expected Expenditures For Life Of Contract</u> |
|--|---|--------------------------|--|---------------------|--|--|--------------------------------|---|
| COMMERCIAL OPERATIONS - MARKET ANALYSIS & HEDGING | WAH SING NG dba NGPLANNIG ILLC Holmdel, NJ (4500319951) | 01/01/20 | Provide support services in Electric Power Research Institute, Electric Generation Expansion Analysis System and M&T Application | 12/31/22 | S/S | \$11,000 *Note: represents total value for a 3-year term including an interim value of \$11,000 | | \$34,500* |
| HUMAN RESOURCES & ADMINISTRATION- AVIATION | FLIGHTSAFETY INTERNATIONAL, INC. Flushing, NY (4500293942) | 03/16/20 | Provide Reduced Vertical Separation Minimums ("RVSM") for Pilot training | 03/15/25 | B/P | \$50,000 *Note: represents total for up to 5-year term including an interim value of \$50,000 | | \$300,000* |
| INFORMATION TECHNOLOGY – CRITICAL SECURE SERVICES & CISO | RADIANT RESOURCES, INC. ♦ Manasquan, NJ (4500319309) | 02/29/20 | Provide maintenance support for the Phantom Splunk software and Splunk User Behavior Analytics for Security Operations Suite | 02/28/23 | B/S | \$198,735 *Note: represents total for up to 3-year term including an interim value of \$198,735 | | \$617,891* |
| INFORMATION TECHNOLOGY – DATA SERVICES & APPLICATION DEVELOPMENT | LIVEDATA UTILITY SOLUTIONS, INC. Cambridge, MA (4500319874) | 01/01/20 | Provide maintenance support for the LiveData software | 12/31/22 | S/S | \$36,180 *Note: represents total for up to 3-year term including an interim value of \$36,180 | | \$108,540* |
| INFORMATION TECHNOLOGY – NYISO APPLICATION | GOMEZ AND SULLIVAN ENGINEERS DPC Utica, NY (4400004939) | 01/01/20 | Provide IT maintenance and support for the Canals Earthquake Warning Systems ("EWS") and the Geographic Information System ("GIS") | 12/31/21 | Si/S | \$79,979 *Note: represents total for up to 2-year term including an interim value of \$79,979 | | \$383,895.73* |

♦ **M / WBE:** New York State-certified Minority / Women-owned Business Enterprise (indicated by the ♦ symbol after the Company Name)
1 Award Basis: B= Competitive Bid; S= Sole Source; Si= Single Source; C= Competitive Search
2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service

Procurement (Services) and Other Contracts – Awards
(For Description of Contracts See "Discussion")

EXHIBIT "A"
May 19, 2020

| <u>Plant Site</u> | <u>Company Contract #</u> | <u>Start of Contract</u> | <u>Description of Contract</u> | <u>Closing Date</u> | <u>Award Basis¹ Contract Type²</u> | <u>Compensation Limit</u> | <u>Amount Expended To Date</u> | <u>Expected Expenditures For Life Of Contract</u> |
|--|---|---------------------------|--|---------------------|--|---|--------------------------------|---|
| LAW - CONTRACTS, LICENSING & ENVIRONMENTAL | KATTEN MUCHIN ROSENMAN LLP Chicago, IL (4500306938) | 01/14/19 | Provide legal representation to the Authority in connection with the restructuring of the energy efficiency project financing program | 01/13/21 | Si/L | | | \$675,000* |
| | | | | | | *Note: represents total for up to 2-year term including additional funding request of \$400,000 | | |
| UTILITY OPERATIONS – ASSET INFORMATION | SOFTWARE SENSE ENTERPRISE, INC. Saratoga Springs, NY (4500319949) | 03/01/20 | Provide maintenance and technical support for the Maximo-PTR-PLUS! Interface and ECC-PTR-PLUS Interface | 02/28/25 | S/S | \$18,735 | | \$300,000* |
| | | | | | | *Note: represents total for up to 5-year term including an interim value of \$18,735 | | |
| UTILITY OPERATIONS - FACILITY MANAGEMENT | Q19-6828JM; 3 Awards 1. EME CONSULTING ENGINEERING LLC New York, NY 2. ENSIGN ENGINEERING PC ♦ Bronx, NY 3. FELLENER ENGINEERING LLP Middletown, NY | 06/01/20 | Provide Mechanical, Electrical and Plumbing ("MEP") engineering services for the Clarence D. Rappleyea building in the White Plains office | 05/31/25 | B/S | | | \$750,000* |
| | | | | | | *Note: represents total aggregate value for 5-year term | | |
| UTILITY OPERATIONS – FACILITY MANAGEMENT | MILLER PROCTOR NICKOLAS, INC. Sleepy Hollow, NY (4500320041) | 05/19/20 (on or about) | Provide a boiler inspection and service agreement at the Clarence D. Rappleyea building in the White Plains office | 05/18/23 | S/S | | | \$250,000* |
| | | | | | | *Note: represents total for up to 3-year term | | |

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2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; A= Architectural & Engineering Service; L= Legal Service

Procurement (Services) Contracts – Extensions and/or Additional Funding
(For Description of Contracts See "Discussion")

EXHIBIT "B"
May 19, 2020

| <u>Plant Site/ Bus. Unit</u> | <u>Company Contract #</u> | <u>Start of Contract</u> | <u>Description of Contract</u> | <u>Closing Date</u> | <u>Award Basis¹ Contract Type²</u> | <u>Compensation Limit</u> | <u>Amount Expended To Date</u> | <u>Authorized Expenditures For Life Of Contract</u> |
|---|---|-------------------------------------|--|----------------------------|---|---|---|--|
| COMMERCIAL OPERATIONS - PROJECT & DEALING STRUCTURING | THREETECH ELECTRIC, INC. ♦ Middle Village, NY (4500309264) | 05/17/19 | Provide lighting installations at the Jamaica Health Center | 05/16/21 | B/C | | \$0.00 | \$98,905* |
| | | | | | | *Note: represents total value for a 2-year term including a 1-year extension thru May 16, 2021 with interim approval for May 16, 2020 thru May 19, 2020; no additional funding | | |
| COMMERCIAL OPERATIONS - PROJECT & DEALING STRUCTURING | THREETECH ELECTRIC, INC. ♦ Middle Village, NY (4500309259) | 05/16/19 | Provide lighting installations at the Bushwick Health Center | 05/15/21 | B/C | | \$0.00 | \$83,620* |
| | | | | | | *Note: represents total value for a 2-year term including a 1-year extension thru May 15, 2021 with interim approval for May 15, 2020 thru May 19, 2020; no additional funding | | |
| UTILITY OPERATIONS – INFRA -STRUCTURE PROJECT MANAGEMENT | DEAN ENERGY SOLUTIONS CORPORATION Hoboken, NJ (4500287027) | 06/29/17 | Provide continuance work for the Fuel Oil Yard Foam Fire Suppression System project | 05/31/22 | B/C | | \$3,848,518 | \$4,817,114* |
| | | | | | | *Note: represents total for up to 4-year and 11-month including a 2-year extension thru May 31, 2022; no additional funding | | |
| UTILITY OPERATIONS – INFRA -STRUCTURE PROJECT MANAGEMENT | O'BRIEN & GERE ENGINEERS, INC. Syracuse, NY (4500307965) | 04/08/19 | Provide continuance engineering and management support for the evaluation of the WPO electrical infrastructure and system studies | 04/07/22 | B/P | | \$532,480.70 | \$1,059,802.95* |
| | | | | | | *Note: represents total for up to 3-year including a 2-year extension thru April 7, 2022 with interim approval for April 8, 2020 thru May 19, 2020; no additional funding | | |
| UTILITY OPERATIONS – PROJECT MANAGEMENT - CENTRAL NY | MINIMAX FIRE SOLUTIONS, INC. Livermore, CA (4500296984) | 04/26/18 | Provide continuation of installation of the fire suppression system for Niagara Robert Moses Power Project ("RMPP") Generator Step-Up Transformer ("GSU") Unit #13 | 10/25/21 | B/C | | \$447,479.69 | \$640,116* |
| | | | | | | *Note: represents total for up to 3-year and 6-month including a an additional 18-month extension thru October 25, 2021 with interim approval for April 25, 2020 thru May 19, 2020; no additional funding | | |

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2 Contract Type: P= Personal Service; S= (Non-Personal) Service; C= Construction; E= Equipment; N= Non-Procurement; L= Legal Service