

New York's Economic Development (Jobs Creation) Program Using the State's Hydroelectric Power to Foster the Creation of Private Sector Jobs

Background Facts and the New York Statute

I.

Background Facts on How New York State Uses its Hydroelectric Power to Foster the Creation of Private Sector Jobs and How North Carolina Could Use the Yadkin River to Do the Same Thing

A. What New York State is Doing

1. *How many jobs have been created by the New York Power Authority through its use of New York's publicly-owned hydropower facilities and their program of providing cheap electric power to private industries in exchange for the creation of jobs?*

The New York Power Authority has 18 generating facilities and over 1,400 circuit-miles of transmission lines. It provides its hydropower to private industries under an economic development statute (set forth in full below, part II) so as to foster the creation and maintenance of more than 350,000 jobs statewide.

2. *What do these jobs pay on average and what sort of benefits (on average) do they involve?*

Total jobs associated with New York Power Authority jobs programs were allocated to applicable industries in a 2009 report written by the Citizens Budget Commission. These selected industries are used in the wage analysis shown in the table below. For all selected industries, the total compensation paid in New York in 2009 is estimated to be \$62,138 and \$44,135 for North Carolina.

Wage analysis appears on the following page.

NYPA Power Programs by Industry, 2007

<u>Industry</u>	<u>Businesses</u>		<u>Kilowatts Allocated</u>		<u>2007 NY Annual Wages</u>	<u>Estimated Value of Benefits</u>
	<i>Number</i>	<i>Percent of Total</i>	<i>Number</i>	<i>Percent of Total</i>		
Manufacturing	296	39.1%	1,105,110	61.2%	\$ 57,039	\$ 17,044
High Tech	141	18.6%	311,734	17.3%	-	-
Financial Services	20	2.6%	98,200	5.4%	\$ 173,089	\$ 30,452
Other Services	52	6.9%	91,778	5.1%	\$ 33,414	\$ 5,562
Food Related	106	14.0%	84,694	4.7%	-	-
Health Services	51	6.7%	56,805	3.1%	\$ 43,914	\$ 9,166
Cultural	40	5.3%	26,415	1.5%	\$ 44,733	\$ 7,173
Education	18	2.4%	16,090	0.9%	\$ 46,706	\$ 8,597
Retail	11	1.5%	8,829	0.5%	\$ 29,132	\$ 6,324
Wholesale	10	1.3%	3,695	0.2%	\$ 69,078	\$ 11,932
Social Services	12	1.6%	3,470	0.2%	-	-
Total	757		1,806,820		\$ 62,138	\$ 12,031

Source: Citizens Budget Commission, *Overhauling the New York Power Authority's Economic Development Programs*, September 2009. Wage and Benefit data from EMSI. Selected Industries are chosen based on analysis by the CBO. These selected industries include the following Programs: Power for Jobs, Economic Development Power, Replacement Power, Expansion Power, High Load Factor Power and Municipal Distribution Agency Power; the World Trade Center Recovery Power and Industrial Economic Development Power programs are not included.

2009 Employee Compensation for Select Industries in NYPA Power Programs

<u>Industry</u>	<u>North Carolina</u>	<u>New York</u>	<u>Washington</u>
Manufacturing	\$ 48,693	\$ 57,039	\$ 62,780
High Tech	-	-	-
Banking/Financial Services	\$ 66,616	\$ 173,089	\$ 70,497
Other Services	\$ 26,607	\$ 33,414	\$ 24,579
Food Related	-	-	-
Health Services	\$ 38,779	\$ 43,914	\$ 43,508
Cultural	\$ 27,883	\$ 44,733	\$ 26,089
Education	\$ 40,928	\$ 46,706	\$ 34,607
Retail	\$ 24,262	\$ 29,132	\$ 29,353
Wholesale	\$ 56,918	\$ 69,078	\$ 61,664
Social Services	-	-	-
TOTAL	\$ 41,336	\$ 62,138	\$ 44,135

Source: In order to capture a complete picture of industry employment, EMSI basically combines covered employment data from Quarterly Census of Employment and Wages (QCEW) produced by the Department of Labor with total employment data in Regional Economic Information System (REIS) published by the Bureau of Economic Analysis (BEA), augmented with County Business Patterns (CBP) and Nonemployer Statistics (NES) published by the U.S. Census Bureau. Projections are based on the latest available EMSI industry data, 15-year past local trends in each industry, growth rates in statewide and (where available) sub-state area industry projections published by individual state agencies, and (in part) growth rates in national projections from the Bureau of Labor Statistics.

3. *What is the cost per job to the New York Power Authority, in terms of kilowatt hours of electricity given by the NYPA to a private industry per job?*

2009 Estimated Cost per Job Supported by NYPA			
NYPA Power Program	Total Allocation (kW)	Current Employment	Cost per Job
Preservation Power Program*	481,000	983	489.3
Power for Jobs	295,081	239,314	1.2
Economic Development Power	175,148	64,015	2.7
High Load Factor	173,250	4,628	37.4
Municipal Distribution Agency	61,610	11,869	5.2
Replacement & Expansion Power	651,287	31,720	20.5
Industrial Economic Development	4,328,883,000	-	50,000.0 **
Total	4,330,720,376	352,529	12,285

Source: New York Power Authority, *Report to the Governor and Legislative Leaders on NYPA Power Programs for Economic Development*, December 2009. * The Preservation Power is made up primarily of one business, Alcoa. ** The Industrial Economic Development Power program requires 50,000 jobs per Kw and creation of at least 100 kw of new load.

4. *Other states are doing the same thing with their hydropower to foster the creation and maintenance of jobs. Washington State’s many PUDs (public utility districts), the Texas Power Authority, South Carolina’s Santee Cooper hydropower Project and many other states also exchange publicly owned electricity for job creation and maintenance.*

NOTE: NEW YORK’S “PRESERVATION POWER PROGRAM” HAS ESSENTIALLY ONE AND ONLY ONE GRANTEE: ALCOA.

B.

What North Carolina *Could* be Doing to Foster Job Creation Using the Yadkin River’s Hydropower-Generating Capacity

According to FERC’s published calculations (which are on information provided to FERC by Alcoa itself), the Yadkin Hydroelectric Project will generate an average of 940,000,000 kW hours of hydropower annually. This figure takes into account good and bad rain years and is an *average* annual number. If the State succeeds in persuading the United States Government to exercise its contractual option to purchase (“recapture”) the Yadkin Project, that Project will be licensed to the State to operate in the public interest.

As the information set forth in part A above shows, if the State were licensed to operate the Yadkin Project, it could sell and “trade” the Project’s hydropower to finance economic development in the Uwharrie region, as well as other local economic development and job-creation projects designed to effect workforce education, a massive local environmental cleanup,

water conservation, forest acquisition and reclamation, cultural preservation and promotion and other projects designed to promote the welfare of the region's people.

The State could also enter into long-term agreements with industries to provide them (at fixed, low prices) with hydropower generated by the Yadkin Project, as well as long-term supplies of fresh water, in exchange for long-term commitments by those industries to locate in the region and create and maintain high-paying jobs there.

More particularly, the State could target those industries that are dependent upon the availability of inexpensive electricity and an abundant, dependable supply of water, such as industries in the computer, Internet and information-age sectors, to locate in the region.

There is an extensive body of publicly available data published by the New York Power Authority ("NYPA"), a host of Washington State public utility districts, the South Carolina-Santee Cooper power authority, the Texas Power Authority and many other public hydropower generators showing how these power authorities provide electricity to industries for agreed-upon, fixed time periods and at below-market prices in exchange for the creation and maintenance of large numbers of jobs.

For example, as noted in part A above, the NYPA's Preservation Power program is a job maintenance program whose primary industry participant is Alcoa. Through it, the NYPA has been able to incentivize Alcoa to maintain 983 jobs in the State.¹

Far more impressively, by providing cheap hydropower to industry, the NYPA's Power for Jobs program was able to obtain commitments from businesses and non-profits to create or retain 239,314 jobs in 2009.²

Remarkably, this program's cost-per-job (*i.e.*, the amount of electricity allocated by the NYPA for each job created or maintained) was a mere 10,512 kW hours of electricity. To put this figure into context, the Yadkin Project generates over **89,421 times** this number of kW hours annually.

New York's Economic Development Power and Municipal Distribution Agency programs were almost as cost-efficient at creating and maintaining jobs as the Jobs for Power program. These two programs fostered the creation or maintenance of over 64,000 and 11,869 jobs, respectively, in 2009.

Other, highly successful programs used by the NYPA to leverage that State's hydropower resources for the creation of jobs include the High Load Factor program, the Replacement & Expansion Power program and the Industrial Economic Development Power program.

¹ As reflected in the NYPA's 2009 published figures on the cost-per-job of jobs supported by the NYPA.

² The NYPA's total available hydropower resources are far greater than the generating capacity of the Yadkin Project. Thus, the Yadkin Project alone cannot be expected to foster the creation of as many jobs in the Uwharrie region as the entire NYPA fostered in 2009. Nevertheless, the Yadkin Project's 940,000,000 kW hours of hydropower can foster the creation and maintenance of literally **tens of thousands** of jobs.

In conclusion, if the United States Government exercises its option to purchase (“recapture”) the Yadkin Project and transfers the Project to the State to operate the Project for the benefit of the public, North Carolina could use the Project’s 940,000,000 kW hours of annual hydropower capacity to foster the private sector’s creation and maintenance of tens of thousands of high-paying, 21st century jobs in one of the State’s most economically depressed regions.

II.

The New York Economic Development Statute (Power Used to Foster Job Creation)

NEW YORK ECONOMIC DEVELOPMENT LAW §§180, *et seq.* (McKinney 2011)

N.Y. ECON. DEV. LAW §183 (2011)

General powers and duties of the board

[Until May 15, 2011, §183 reads as set out below:] In furtherance of the purposes set forth in this article, the board shall have the following powers:

- (a) To adopt, within one hundred twenty days after appointment, eligibility criteria and rules and regulations relating to the activities of the board.
- (b) To evaluate applications for allocations of economic development power and of power under the power for jobs program and to make recommendations with respect to such proposed allocations.
- (c) To evaluate economic development plans for the use of industrial incentive awards submitted by the power authority of the state of New York pursuant to this article.
- (d) To provide advice and assistance when appropriate to applicants on state economic development programs and services in addition to the economic development power and power under the power for jobs program and industrial incentive awards specifically provided for in this section.
- (e) In consultation with the department of public service, to establish and develop guidelines for a competitive procurement process as provided in subdivision (c) of section one hundred eighty-nine of this article.
- (f) The department, the power authority of the state of New York, the urban development corporation, and all other state officers, departments, boards, divisions and commissions shall render such services to the board within their respective functions as may be requested by the board.
- (g) The board shall solicit applications for economic development power and for power under the power for jobs program by public notice. Such notice shall be in the form of newspaper

advertisements, press releases, and by such other means as the board finds appropriate. Solicitations of preliminary applications for power under the power for jobs program shall begin promptly after the effective date of chapter three hundred sixteen of the laws of nineteen hundred ninety-seven establishing such program. The board shall solicit applications for the additional three hundred megawatts of power available during the fourth phase of the program by public notice, written notification to each recipient of power allocated during the first phase of the program, and such other means as the board finds appropriate. Solicitations of applications for such three hundred megawatts of power available in phase four of the program shall begin promptly after the effective date of part KK of chapter sixty-three of the laws of two thousand making such power available. The board shall solicit applications for the additional one hundred eighty-three megawatts of power available during the fifth phase of the program by public notice, written notification to each recipient of power allocated during the second and third phases of the program, and by such other means as the board finds appropriate. Solicitations for such one hundred eighty-three megawatts of power available in phase five of the program shall begin promptly after the effective date of the chapter of the laws of two thousand two making such power available.

(h)

1. The board shall solicit applications for and make recommendations for approval of energy cost savings benefits in amounts made available pursuant to the twelfth undesignated paragraph of section one thousand five of the public authorities law for the purpose of lowering the cost of electricity to eligible businesses.

2. During the period commencing on November first, two thousand five and ending on [fig 1] May fifteenth, two thousand [fig 2] eleven eligible businesses shall only include customers served under the power authority of the state of New York's high load factor, economic development power and other business customers served by political subdivisions of the state authorized by law to engage in the distribution of electric power that were authorized to be served by the authority from the authority's former James A. Fitzpatrick nuclear power plant as of the effective date of this subdivision whose power prices may be subject to increase before [fig 3] May fifteenth, two thousand [fig 4] eleven. Provided, however, that the total amount of megawatts of replacement and preservation power which, due to the extension of the energy cost savings benefits, are not relinquished by or withdrawn from a recipient shall be deemed to be relinquished or withdrawn for purposes of offering such megawatts by the authority for reallocation pursuant to subdivision thirteen of section one thousand five of the public authorities law. Provided, further, that for any such reallocation, the authority shall maintain the same energy cost savings benefit level for all eligible businesses using any available authority resources as deemed feasible and advisable by the trustees pursuant to section seven of part U of chapter fifty-nine of the laws of two thousand six.

3. Each application for an energy cost savings benefit shall be evaluated under criteria adopted by the board in consultation with the power authority of the state of New York, which criteria shall be designed to promote economic development, maintain and develop jobs, and encourage new capital investment throughout the state of New York. Such criteria shall address but need not be limited to:

(a) the overall economic impact of the applicant in terms of the number of jobs to be created or retained, average annual payroll, capital investment and use of New York state suppliers;

(b) the likelihood that in the absence of approval of an energy cost savings benefit, the applicant would close, contract or relocate outside the state of New York;

(c) the applicant's compliance with the commitment to retain and/or create jobs contained in its prior power contract with the power authority of the state of New York; and

(d) the extent to which an energy cost savings benefit will affect the overall productivity or competitiveness of the applicant's business and its existing employment within the state.

4. Applications for an energy cost savings benefit shall be in the form and contain such information, exhibits and supporting data as the board may prescribe. The board shall review the applications received and shall determine the applications which best meet the criteria established for the benefits pursuant to this subdivision and it shall recommend such applications to the power authority of the state of New York with such terms and conditions as it deems appropriate; provided, however, that for energy cost savings benefits granted on or after June thirtieth, two thousand nine through [fig 1] May fifteenth, two thousand [fig 2] eleven, the board shall expedite the awarding of such benefits and shall defer the review of compliance with such criteria until after the applicant has been awarded an energy cost savings benefit. Such terms and conditions shall include reasonable provisions providing for the partial or complete withdrawal of the energy cost savings benefit in the event the recipient fails to maintain mutually agreed upon commitments that may include, but are not limited to, levels of employment, capital investment and power utilization. Recommendation for approval of an energy cost savings benefit shall qualify an applicant to receive an energy cost savings benefit from the power authority of the state of New York pursuant to the terms and conditions of the recommendation.

5. The transfer of an energy cost savings benefit shall be prohibited unless specifically approved by the board as consistent with the criteria established pursuant to this paragraph. Any transfer which occurs without the board's approval shall be invalid and such transfer may subject the recipient to revocation of its benefit and modification or revocation of its contract.

(i)

1. The western New York advisory group shall solicit applications for and make recommendations for approval of western New York economic development fund benefits in amounts made available pursuant to the eleventh undesignated paragraph of section one thousand five of the public authorities law.

2. Eligible projects shall include projects proposed by entities from the public, private or not-for-profit sectors located within a thirty-mile radius of the Niagara Power Plant Project that develop or manage economic development projects that have identified the ultimate site or user of such economic development fund benefits. Eligible projects shall be proposed by entities that are customers served under the power authority of the state of New York's high load factor,

economic development power and other business customers served by political subdivisions of the state authorized by law to engage in the distribution of electric power that were authorized to be served by the authority's former James A. Fitzpatrick nuclear power plant.

3. Each application for a western New York economic development fund benefit shall be evaluated under criteria adopted by the western New York advisory group, in consultation with the power authority of the state of New York, which criteria shall be designed to promote economic development, maintain and develop jobs, and encourage new capital investment throughout the state of New York. Such criteria shall address but need not be limited to:

(a) the overall economic impact of the applicant in terms of the number of jobs to be created or retained, average annual payroll, capital investment and use of New York state suppliers;

(b) the likelihood that in the absence of approval of a western New York economic development fund benefit, the applicant would close, contract or relocate outside the state of New York;

(c) the applicant's compliance with the commitment to retain and/or create jobs contained in its prior power contract with the power authority of the state of New York;

(d) the extent to which a western New York economic development fund benefit will affect the overall productivity or competitiveness of the applicant's business and its existing employment within the state; and

(e) the overall impact of the project in terms of the economic viability of identified ultimate site or user including the project's ability to induce additional commercial activity on the site, revitalize an urban area, and its compliance with regional development plans.

4. Applications for a western New York economic development fund benefit shall be in the form and contain such information, exhibits and supporting data as the board may prescribe. The western New York advisory group shall review the applications received and shall determine the applications which best meet the criteria established for the benefits pursuant to this subdivision and it shall recommend such applications to the power authority and the state of New York with such terms and conditions as it deems appropriate. Such terms and conditions shall include reasonable provisions providing for the partial or complete withdrawal of the western New York economic development fund benefit in the event that the recipient fails to maintain mutually agreed upon commitments that may include, but are not limited to, infrastructure project completion. Recommendation for approval of a western New York economic development fund benefit shall qualify an applicant to receive a western New York economic development fund benefit from the power authority of the state of New York pursuant to the terms and conditions of the recommendation.

5. The transfer of a western New York economic development fund benefit shall be prohibited unless specifically approved by the western New York advisory group as consistent with the criteria established pursuant to this paragraph. Any transfer which occurs without such

advisory group's approval shall be invalid and such transfer may subject the recipient to revocation of its benefit and modification or revocation of its contract.

[Eff May 15, 2011, §183 reads as set out below:] In furtherance of the purposes set forth in this article, the board shall have the following powers:

(a) To adopt, within one hundred twenty days after appointment, eligibility criteria and rules and regulations relating to the activities of the board.

(b) To evaluate applications for allocations of economic development power and to make recommendations with respect to such proposed allocations.

(c) To evaluate economic development plans for the use of industrial incentive awards submitted by the power authority of the state of New York pursuant to this article.

(d) To provide advice and assistance when appropriate to applicants on state economic development programs and services in addition to the economic development power and industrial incentive awards specifically provided for in this section.

The department, the power authority of the state of New York, the urban development corporation, and all other state officers, departments, boards, divisions and commissions shall render such services to the board within their respective functions as may be requested by the board.

The board shall solicit applications for economic development power by public notice. Such notice shall be in the form of newspaper advertisements, press releases, and by such other means as the board finds appropriate.

N.Y. ECON. DEV. LAW §184 (2011)

Criteria for eligibility for economic development power

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

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

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

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

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

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

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

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

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

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

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

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

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

N.Y. ECON. DEV. LAW §185 (2011)

Revitalization programs

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

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

(1) contains a detailed strategy for actions to be taken by the applicant to continue as a successful business, including, but not limited to, productivity and efficiency improvements, changes in operations, financing or management, measures to enhance labor and management cooperation and to improve the skills and performance of the work force at all levels, capital

investment in new equipment and plant modernization, development of new markets and products, and such other actions as will enable the business to stabilize and sustain its operations;

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

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

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

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

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

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

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

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

N.Y. ECON. DEV. LAW §186 (2011)

Transfers of economic development power

The transfer of an economic development power allocation between facilities of a recipient shall be prohibited unless specifically approved by the board as consistent with the criteria and requirements in sections one hundred eighty-four, one hundred eighty-five and subdivision (g) of section one hundred eighty-seven of this article as may be applicable. Any transfer which occurs without the board's approval shall be invalid and such transfer may subject the recipient to revocation of its allocation and modification or revocation of its contract.

N.Y. ECON. DEV. LAW §187 (2011)

Economic development power and power for jobs allocations

(a) [Until May 15, 2011 § 187 reads as set out below:] Any municipality or municipal agency may, alone or jointly with others, file with the board an application for an economic development power allocation on behalf of a business. Such applications shall be in such form and contain such information, exhibits and supporting data as the board may prescribe. The board shall issue a determination as to the sufficiency of an application or reapplication within twenty days of the

receipt thereof. The applicant shall be entitled to timely review and action on the application by the board.

(b) Any applicant authorized to file with the board an application for economic development power may also apply for, purchase and receive a bulk allocation of economic development power for the purpose of entering into contracts with eligible businesses. In making such an application, the applicant shall indicate the estimated number of jobs created or retained as a result of the allocation of economic development power. The board, in acting upon such an application, shall consider, and apply, as appropriate, the criteria and requirements provided for in sections one hundred eighty-four and one hundred eighty-five of this article. All such applications for economic development power shall include a specified period of time to be approved by the board in which the applicant shall execute contracts with businesses for the use of the power from its bulk allocation of economic development power. If the applicant fails to contract for the full amount of the bulk allocation within that specified period of time, the uncontracted for portion of the bulk allocation shall be withdrawn.

(c) The board shall review the applications received and shall determine the applications which best meet the criteria established for the allocations authorized under this article and it shall recommend such applications to the power authority of the state of New York with such terms and conditions as it deems appropriate. Except for allocations subject to subdivision (g) of this section and section one hundred eighty-five of this article, each allocation of economic development power recommended by the board shall be to serve new electrical demand at facilities at which new jobs are created. Such terms and conditions shall include reasonable provisions providing for the partial or complete withdrawal of the economic development power in the event the recipient fails to maintain mutually agreed upon levels of employment and power utilization.

(d) Allocations of economic development power shall be recommended only to or for the use of businesses which normally utilize a minimum peak electric demand of four hundred kilowatts. At least one half of all economic development power allocations shall be recommended for applicants within the geographic areas served by Long Island Lighting Company, Consolidated Edison Company of New York, Orange and Rockland Utilities, Incorporated, Central Hudson Gas and Electric Corporation and that part of Westchester, Putnam and Dutchess counties served by New York State Electric and Gas Corporation. No more than fifty percent of the available economic development power shall be recommended for allocation to applicants located within a single municipality except upon the unanimous recommendation of the board.

(e) Recommendation for an allocation of economic development power shall qualify an applicant to enter into a contract for purchase of such power from the power authority of the state of New York pursuant to the terms and conditions of the recommendation. Contracts between an applicant and a business receiving an allocation of economic development power shall be subject to the approval of the power authority of the state of New York. Such contracts and allocations shall provide that the local distributor of electric service will provide customer and billing services upon mutually agreed terms and conditions.

(f) Upon approval or denial of any application for economic development power or power under

the power for jobs program, the board shall issue in writing a statement of its findings and conclusions with respect to such application and the reasons for its approval or denial.

(g) Within cities of a population of one million or more and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester, an economic development power allocation may be recommended for the purpose of job retention by unanimous approval of the board applying the criteria developed pursuant to section one hundred eighty-four of this article and when an applicant on behalf of a business within such city or county demonstrates to the board (a) the business' plans to relocate out of state resulting in the loss of a substantial number of jobs and its commitment to new investments in real property of at least twelve and one-half percent of the effective market value or to relocate within such city or county to comparable facilities, upon receiving an economic development allocation, and (b) that the applicant or the business first has made the greatest practicable use of all other potential assistance and means, including but not limited to other low cost power and/or energy, tax and energy cost abatement measures and administrative steps to make possible the business' new investment or relocation. For the purposes of this subdivision, effective market value for special assessing units, as defined in article eighteen of the real property tax law, shall be determined by dividing the assessed value of the property on the latest completed assessment roll by the latest class ratio applicable to the class in which the property is classified, and for all other assessing units, effective market value shall be determined by dividing the assessed value of the property on the latest completed assessment roll by the final state equalization rate for [or]¹ special equalization rate as promulgated by the office of real property services pursuant to article twelve of the real property tax law.

(a) [Eff May 15, 2011, § 187 reads as set out below and its section heading reads as follows: "Economic development power allocations"] Any municipality or municipal agency may, alone or jointly with others, file with the board an application for an economic development power allocation on behalf of a business. Such applications shall be in such form and contain such information, exhibits and supporting data as the board may prescribe. The board shall issue a determination as to the sufficiency of an application or reapplication within twenty days of the receipt thereof. The applicant shall be entitled to timely review and action on the application by the board.

(b) Any applicant authorized to file with the board an application for economic development power may also apply for, purchase and receive a bulk allocation of economic development power for the purpose of entering into contracts with eligible businesses. In making such an application, the applicant shall indicate the estimated number of jobs created or retained as a result of the allocation of economic development power. The board, in acting upon such an application, shall consider, and apply, as appropriate, the criteria and requirements provided for in sections one hundred eighty-four and one hundred eighty-five of this article. All such applications for economic development power shall include a specified period of time to be approved by the board in which the applicant shall execute contracts with businesses for the use of the power from its bulk allocation of economic development power. If the applicant fails to contract for the full amount of the bulk allocation within that specified period of time, the uncontracted for portion of the bulk allocation shall be withdrawn.

(c) The board shall review the applications received and shall determine the applications which best meet the criteria and it shall recommend such applications to the power authority of the state of New York with such terms and conditions as it deems appropriate. Except for allocations subject to subdivision (g) of this section and section one hundred eighty-five of this article, each allocation recommended by the board shall be to serve new electrical demand at facilities at which new jobs are created. Such terms and conditions shall include reasonable provisions providing for the partial or complete withdrawal of the economic development power in the event the recipient fails to maintain mutually agreed levels of employment and power utilization.

(d) Allocations shall be recommended only to or for the use of businesses which normally utilize a minimum peak electric demand of four hundred kilowatts. At least one half of all allocations shall be recommended for applicants within the geographic areas served by Long Island Lighting Company, Consolidated Edison Company of New York, Orange and Rockland Utilities, Incorporated, Central Hudson Gas and Electric Corporation and that part of Westchester, Putnam and Dutchess counties served by New York State Electric and Gas Corporation. No more than fifty percent of the available economic development power shall be recommended for allocation to applicants located within a single municipality except upon the unanimous recommendation of the board.

(e) Recommendation for an allocation of economic development power shall qualify an applicant to enter into a contract for purchase of such power from the power authority of the state of New York pursuant to the terms and conditions of the recommendation. Contracts between an applicant and a business receiving an allocation of economic development power shall be subject to the approval of the power authority of the state of New York. Such contracts and allocations shall provide that the local distributor of electric service will provide customer and billing services upon mutually agreed terms and conditions.

(f) Upon approval or denial of any application for economic development power, the board shall issue in writing a statement of its findings and conclusions with respect to such application and the reasons for its approval or denial.

(g) Within cities of a population of one million or more and the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester, an economic development power allocation may be recommended for the purpose of job retention by unanimous approval of the board applying the criteria developed pursuant to section one hundred eighty-four of this article and when an applicant on behalf of a business within such city or county demonstrates to the board (a) the business' plans to relocate out of state resulting in the loss of a substantial number of jobs and its commitment to new investments in real property of at least twelve and one-half percent of the effective market value or to relocate within such city or county to comparable facilities, upon receiving an economic development allocation, and (b) that the applicant or the business first has made the greatest practicable use of all other potential assistance and means, including but not limited to other low cost power and/or energy, tax and energy cost abatement measures and administrative steps to make possible the business' new investment or relocation. For the purposes of this subdivision, effective market value for special assessing units, as defined in article eighteen of the real property tax law, shall be determined by dividing the assessed value

of the property on the latest completed assessment roll by the latest class ratio applicable to the class in which the property is classified, and for all other assessing units, effective market value shall be determined by dividing the assessed value of the property on the latest completed assessment roll by the final state equalization rate or special equalization rate as promulgated by the state board of real property services pursuant to article twelve of the real property tax law.

N.Y. ECON. DEV. LAW §188 (2011)

Industrial incentive awards

The power authority of the state of New York shall submit to the board its economic development plan for the use of industrial incentive awards for economic development purposes. The board shall review the proposed plan and shall approve such plan, in whole or in part, upon its determination that such plan and its implementation is consistent with the criteria and requirements provided for in sections one hundred eighty-four and one hundred eighty-five of this article and such other criteria as the board may, by rule and regulation, provide with respect to the plan and industrial incentive awards.

N.Y. ECON. DEV. LAW §189 (2011) [Expires and repealed May 15, 2011]

Power for jobs program

(a) Definitions. For the purposes of this section, the following terms shall have the following meanings:

1. "Local distributor of electric service" shall mean an electric corporation as defined in subdivision thirteen of section two of the public service law that was a member of the New York power pool on January first, nineteen hundred ninety-five, or its successor in interest.
2. "Small business" shall include a corporation, partnership, limited liability company, sole proprietorship or individual that normally utilizes a minimum peak electric demand of four hundred kilowatts or less.
3. "Not-for-profit corporation" shall mean a corporation defined in subdivision five of section one hundred two of the not-for-profit corporation law.
4. "Energy service company option" shall mean the direct, voluntary purchase of power and energy and associated services, necessary to provide a power for jobs allocation for phase five of the power for jobs program, from an energy service company determined to be eligible by the public service commission, to engage in the sale of power, energy or associated services, by a recipient recommended by the board for an allocation of power under the fifth phase of the power for jobs program. Such purchase shall remain subject to requirements for participation in the power for jobs program. For the purpose of determining the total amount of power to be delivered to recipients under phase five of the program, power provided under the energy service company option shall be included within the one hundred eighty-three megawatts provided for phase five of the program. The terms of the contract between the recipient and the power

authority of the state of New York shall apply to any recipient of an allocation under the power for jobs program that purchases power from the power authority of the state of New York and transfers the allocation to an energy services company. Charges by the local distributor of electric service for delivery of a power for jobs allocation under the energy service company option shall be rendered either directly by such local distributor or through the energy service company in accordance with the retail access practices established by the public service commission; provided, however, that the charges for delivery of such allocation shall be no higher than the charges imposed by the local distributor in connection with the provision of power for jobs service by the power authority of the state of New York.

5. "Power for jobs electricity savings reimbursements" shall mean payments made by the power authority of the state of New York as recommended by the board to recipients of allocations of power under phases four and five of the power for jobs program for a period of time until November thirtieth, two thousand four, subsequent to the expiration of their phase four or five power for jobs contract provided however that any power for jobs recipient may choose to receive an electricity savings reimbursement as a substitute for a contract extension for the period from the date the recipient's contract expires through [fig 1] May fifteenth, two thousand [fig 2] eleven. The "basic reimbursement" is an amount that when credited against the recipient's actual "unit cost of electricity" during a quarter (meaning the cost for commodity and delivery per kilowatt-hour for the quantity of electricity purchased and delivered under the power for jobs program during a similar period in the final year of the recipient's contract), results in an effective unit cost of electricity during the quarter equal to the average unit cost of electricity such recipient paid during the final year of the contract for power allocated under phase four or five of the power for jobs program.

Provided further that, notwithstanding any provision of law to the contrary, for the period beginning January first, two thousand six, for recipients who choose to elect a contract extension, and whose unit cost of electricity under such contract extension exceeds the unit cost of electricity of the electric corporation which holds a franchise for electric services in the location of the recipient's facility, the power authority shall reimburse the recipient for all dollars paid in excess of the unit cost of electricity of the electric corporation which holds a franchise for electricity services in the location of the recipient's facility. In addition, a recipient that is a manufacturer that elected a contract extension, may choose to withdraw such election and instead may choose to elect an electricity savings reimbursement upon notice to the power authority. Such electricity savings reimbursement shall be calculated according to the formula for the basic reimbursement as explained in this paragraph.

6. "Authority sources" shall mean power and energy supplied by generating facilities of the power authority of the state of New York in operation or under construction as of the effective date of this paragraph and power and energy procured by competitive solicitation; provided, however, that it shall not include power from the Niagara and Saint Lawrence-FDR power projects, except this shall not preclude the use of proceeds from the sale of power from such projects for energy cost savings benefits as provided in the public authorities law.

(b) Source of power. Power under the power for jobs program shall be in addition to economic development power and shall mean four hundred fifty megawatts of power in the initial three

phases of the program, three hundred megawatts of power in the fourth phase of the program and one hundred eighty-three megawatts of power in the fifth phase of the program. The authority shall provide the least cost power available acquired through a competitive procurement process, from authority sources, or through an alternate method. The authority shall conduct a competitive procurement process and may provide power through an alternate method if the cost is lower than the cost of power obtained through a competitive procurement process; provided, however that the use of such lower cost power from authority sources shall not reduce the availability of, or cause an increase in the price of, power provided by the authority for any other program authorized in this article or pursuant to any other statute.

(c) Competitive procurement process. The board shall, in consultation with the department of public service, expeditiously establish a competitive procurement process for power under the power for jobs program and for its delivery to businesses and not-for-profit corporations which qualify for allocations pursuant to this section. Such process shall provide the least cost power consistent with the goal of providing safe and reliable service to all customers and may consider the goal of preserving New York state water and air quality. Such process shall also be consistent with any rules, regulations or guidelines established by the independent system operator or its successor organization that is approved to operate in New York state by the United States federal energy regulatory commission and with all relevant state and federal laws in effect on the date the contract is executed.

(d) Criteria. After evaluation of the criteria in section one hundred eighty-four of this article, the board may recommend an allocation of power under the power for jobs program for the purpose of job retention to a business or not-for-profit corporation which demonstrates to the satisfaction of the board that either: (1) in the case of a business, (i) it is at risk of relocating facilities or operations out of New York state or closing or curtailing facilities or operations in the state, resulting in the loss of jobs and its unit cost of electricity at its facilities in the state exceeds the cost of electricity at locations outside of the state where the business would establish new facilities or transfer operations or where the business' competitors have facilities and operations, or (ii) it has begun to make a significant investment in electric generating facilities or equipment and such investment would have the potential of having a significant impact on an electric corporation's rates and/or revenues, or (2) in the case of a not-for-profit corporation, that it provides critical services or substantial benefits to the local community and is at significant risk of closing or curtailing its facilities or operations. The board may recommend an allocation under the power for jobs program for the purpose of job creation to a business, small business or not-for-profit corporation serving new electrical demand at facilities at which new jobs are established under criteria adopted by the board consistent with the criteria in section one hundred eighty-four of this article. In recommending an allocation under the power for jobs program, the board shall consider whether the locality in which the business or not-for-profit corporation is or plans to be located has offered to provide economic incentives to the business or not-for-profit corporation to supplement the incentive provided under the power for jobs program.

(e) Phase-in of program.

1. Four hundred fifty megawatts shall be made available for allocation in three phases during a three year period. Two hundred sixty-seven megawatts, constituting the first phase of the

program, shall be allocated during the first year of the program, an additional one hundred thirty-three megawatts, constituting the second phase of the program, shall be allocated during the second year, and fifty megawatts, constituting the third phase of the program, shall be allocated during the third year. If the board does not recommend allocations for the full two hundred sixty-seven megawatts in the first year of the program, such power shall be allocated during the second year of the program, provided that four hundred megawatts of allocations must be allocated within two years of the effective date of chapter three hundred sixteen of the laws of nineteen hundred ninety-seven enacting this section and provided further that the remaining fifty megawatts must be allocated within three years of such effective date.

2. Three hundred megawatts, constituting phase four of the program, shall be made available for allocation; provided, however that the board shall recommend allocations in three rounds, such that one hundred megawatts shall be allocated on or before October first, two thousand, an additional one hundred megawatts shall be allocated on or before February first, two thousand one, and the final one hundred megawatts shall be allocated on or before July first, two thousand one. In each round of allocations, the board shall evaluate any application requesting an allocation of power, including pending applications evaluated, but not recommended, for allocations during the previous rounds. Delivery of such megawatts under phase four shall begin no sooner than January first, two thousand one and end on or before December thirty-first, two thousand five.

3. One hundred eighty-three megawatts, constituting phase five of the program, shall be made available for allocation to phase two and phase three recipients. If any such recipient declines to extend its allocation, such power may be available for new allocations. The board shall evaluate any applications requesting such power. Delivery of such megawatts under phase five shall begin no sooner than January first, two thousand two and shall end on or before December thirty-first, two thousand five.

(f) Eligibility. The board shall recommend applications for allocations of power under the power for jobs program to or for the use of businesses which normally utilize a minimum peak electric demand in excess of four hundred kilowatts; provided, however, that up to one hundred megawatts of power available for allocation during the initial three phases of the power for jobs program may be recommended for allocations to not-for-profit corporations and to small businesses; and, provided, further that up to seventy-five megawatts of power available for allocation during the fourth phase of the program may be recommended for allocations to not-for-profit corporations and to small businesses. The board may require small businesses that normally utilize a minimum peak electric demand of less than one hundred kilowatts to aggregate their electric demand in amounts of no less than one hundred kilowatts, for the purposes of applying to the board for an allocation of power. The board shall recommend allocations of the additional three hundred megawatts available during the fourth phase of the program to any such eligible applicant, including any recipient of power allocated during the first phase of the program. The board shall recommend allocations of the additional one hundred eighty-three megawatts available during the fifth phase of the program to any eligible applicant, including any recipient of power allocated during the second and third phases of the program; provided, however, that the term of contracts for allocations under the fifth phase of the program shall in no case extend beyond [fig 1] May fifteenth, two thousand [fig 2] eleven.

Notwithstanding any provision of law to the contrary, and, in particular, the provisions of this chapter concerning the terms of contracts for allocations under the power for jobs program, the terms of any contract with a recipient of power allocated under phase two of the power for jobs program that has expired or will expire on or before the thirty-first day of August, two thousand two, may be extended by the power authority of the state of New York for an additional period of three months effective on the date of such expiration, pending the filing and approval of an application by such recipient for an allocation under the fifth phase of the program. The term of any new contract with such recipient under the fifth phase of the program shall be deemed to include any three month contract extension made pursuant to this subdivision and the termination date of any such new contract under phase five shall be no later than if such new contract had commenced upon the expiration of the recipient's original phase two contract. The terms of any contract with a recipient of power allocated under phase four and/or phase five of the power for jobs program that has expired or will expire on or before the thirty-first day of December, two thousand five, may be extended by the power authority of the state of New York from a date beginning no earlier than the first day of December, two thousand four and extending through [fig 3] May fifteenth, two thousand [fig 4] eleven.

(g) Applications. Applications for power under the power for jobs program shall be in the form and contain such information, exhibits and supporting data as the board may prescribe. The board may prescribe a simplified form and content for applications submitted by recipients of power allocated during the first phase of the program who apply for allocations available during the fourth phase of the program. The board may prescribe a simplified form and content for applications submitted by recipients of power allocated during the second and third phases of the program who apply for allocations available during the fifth phase of the program. Each member of the board shall be provided a copy of each application submitted for such power. Subject to confidentiality requirements upon first receipt of each application by the authority, it shall promptly notify 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, the chairman of the senate finance committee and each member of the state legislature in whose district any portion of the facility owned or operated by the applicant is located. Such notice shall provide the name and a description of the applicant and address of the facility where the applicant will use the power. Any official entitled to receive such information shall also receive five business days notice of the board's intent to evaluate and make a decision on such application, the date of the meeting at which such evaluation and decision making is scheduled to take place, the amount of power requested by the applicant, and the number of jobs proposed to be created or retained as a result of the power allocation.

(h) Terms of contracts.

1. The board shall recommend allocations of power under the four phases of the power for jobs program under contracts with an effective term not in excess of three years and other terms and conditions as it deems appropriate.

2. The board shall recommend allocations of an additional three hundred megawatts of power available in the fourth phase of the power for jobs program under contracts which provide for delivery of power beginning no sooner than January first, two thousand one and ending on a date

on or before December thirty-first, two thousand five. The board shall recommend allocations of an additional one hundred eighty-three megawatts of power available in the fifth phase of the power for jobs program under contracts which provide for delivery of power beginning no sooner than January first, two thousand two and ending on a date on or before December thirty-first, two thousand five.

3. Such terms and conditions shall include reasonable provisions providing for the partial or complete withdrawal of the power under the power for jobs program in the event that the recipient fails to maintain mutually agreed upon levels of employment and power utilization.

(i) Distribution. The board shall recommend applications for allocations of power under the power for jobs program for applications within the geographic areas served by each electric corporation in proportion to each corporation's gross receipts tax revenues collected by each of the corporations on sales of electricity to consumers, pursuant to article nine of the tax law, as reported by the department of public service to the board; provided, however that the board may recommend an allocation which exceeds any such proportional distribution if it determines that such an allocation would advance the public policy set forth in this section to provide effective incentives to promote economic development, maintain and develop jobs, and encourage new capital investment throughout New York state.

(j) Recommendation for an allocation of power under the power for jobs program shall qualify an applicant to enter into a contract for purchase of such power from the power authority of the state of New York pursuant to the terms and conditions of the recommendation or, for applicants eligible for the fifth phase of the program, to purchase power and energy and associated services from a private energy service company and have such allocation delivered by the local distributor of electric service. The local distributor of electric service shall purchase such power and deliver it or, where a recipient elects the energy service company option, to provide delivery services at the then current delivery rate or service charge for economic development power or, if none exists, at a delivery rate set by the appropriate jurisdictional regulatory body.

(k) If a local distributor of electric service declines to purchase or deliver power offered under the power for jobs program, it shall nonetheless deliver such power to the customers selected by the board at the current delivery rate for economic development power or, if none exists, at a delivery rate set by the appropriate jurisdictional regulatory body. Revenue losses relating to such transactions shall not give rise to the tax credits available under the power for jobs program when a utility has declined to purchase power allocated for sale under such program.

(l) The board shall solicit and review applications for the power for jobs electricity savings reimbursements and contract extensions from recipients of power for jobs allocations under phases four and five of the program for the award of such reimbursements and/or contract extensions. The board may prescribe a simplified form and content for an application for such reimbursements or extensions. An applicant shall be eligible for such reimbursements and/or extensions only if it is in compliance with and agrees to continue to meet the job retention and creation commitments set forth in its prior power for jobs contract, or such other commitments as the board deems reasonable; provided, however, that for the power for jobs electricity savings reimbursements and contract extensions granted on or after June thirtieth, two thousand nine

through [fig 1] May fifteenth, two thousand [fig 2] eleven, the board shall expedite the awarding of such reimbursements and/or extensions and shall defer the review of compliance with such commitments until after the applicant has been awarded a power for jobs electricity savings reimbursement and/or contract extension. The board shall review such applications and make recommendations for the award: 1. of such reimbursements through the power authority of the state of New York for a period of time up to November thirtieth, two thousand four, and 2. of such contract extensions or reimbursements as applied for by the recipient for a period of time beginning December first, two thousand four and ending [fig 3] May fifteenth, two thousand [fig 4] eleven. At no time shall a recipient receive both a reimbursement and extension after December first, two thousand four. The power authority of the state of New York shall receive notification from the board regarding the award of power for jobs electricity savings reimbursements and/or contract extensions.



NEWS

Solar Company to Receive Hydropower to Locate Facility in Western New York: NYPA Trustees Approve Low-Cost Power Allocation That Will Create Jobs and Investment

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FOR IMMEDIATE RELEASE

LEWISTON--New York Power Authority (NYPA) President and Chief Executive Officer Richard M. Kessel announced Tuesday that Sunworks Solar LLC has been allocated low-cost hydropower to encourage the construction and operation of a \$200 million solar panel manufacturing plant in Western New York to create 175 permanent clean energy jobs and 300 construction jobs.

At their meeting today at NYPA's Niagara Power Project Power Vista, the NYPA Trustees approved an allocation of five megawatts (mw) for the construction of a plant to produce high-tech, low-cost, thin-film silicon photovoltaic (PV) solar panels. When completed, the facility would manufacture ready-to-deploy solar panels for the commercial, government and utility solar markets.

"This allocation demonstrates how the strategic use of clean, renewable hydropower to manufacture solar products supports New York State's efforts to address the region's energy and economic development needs, while also helping to combat global climate change," Governor David A. Paterson said.

"Our hydropower allocation to Sunworks Solar is a great opportunity to support the efforts of Governor Paterson for creating new clean energy jobs around the state as part of his vision for promoting high-tech industries and the state's recovery from the severe effects of the national recession," Michael J. Townsend, NYPA chairman, said. "The Power Authority is delighted to make this low-cost power allotment and looks forward to Sunwork Solar's identification of an appropriate Western New York site for its manufacturing facility."

"We are pleased to partner with NYPA as we work towards building a solar panel manufacturing facility in Western New York," Brian Robertson, CEO of Sunworks, said. "NYPA's allocation of low-cost hydropower has attracted us to consider a sizable investment in the future of the Buffalo-Niagara Frontier region. This program enhances New York's competitiveness as it seeks to attract the capital intensive Green Jobs that are in demand around the world."

"This is another example of how NYPA resources are strategically used to both advance the growth of the clean energy sector in New York State and to help stimulate the Western New York economy," Kessel said. "This allocation, together with NYPA's other efforts such as the Great Lakes Offshore Wind project, the 100-mw solar project and the photovoltaic project with the University at Buffalo, has the great potential to position the Niagara Frontier as the focal point for the new clean energy economy."

Kessel noted that NYPA's efforts are consistent with Governor Paterson's innovative plan for New York to meet 45 percent of its electricity needs through improved energy efficiency and clean, renewable energy by 2015 ("45 by 15" plan).

Sunworks Solar considers low-cost electricity critical for managing its costs in competing with offshore manufacturers that are also engaged in solar panel production. Although the company has been considering multiple sites in the Northeast for its new facility, it has indicated that Western New York is an optimal location because of the region's proximity to fast growing markets.

Sunworks Solar estimates that its fully operational facility in Western New York could eventually result in as many as 1,300 jobs in various parts of the state, including necessary supply chain support, as well as jobs related to the installation and maintenance of its solar panels.

Although plans are still being finalized, construction on the facility could begin as early as the spring of 2010 and be completed by the summer of 2011.

The hydropower allocation to Sunworks Solar will be drawn from a block of Niagara power known as Replacement Power, one of two large amounts of industrial power from the project that are reserved under New York State law for Western New York businesses. The other block of power is called Expansion Power. Together, they combine for about one-third of Niagara's firm generating output, with some 39,000 jobs in the region directly tied to the allocations of power under the two programs.

The allocation to Sunworks Solar follows many other efforts by NYPA to create clean energy jobs in Western New York and throughout the state. Included in those efforts are:

An allocation of 40 mw in May 2008 to Globe Specialty Metals for the company's reopening and expansion of a facility in Niagara Falls that will include the investment of \$60 million in a facility that will manufacture silicon for solar power systems and will create 500 jobs;

An allocation of 650 kilowatts last March to Precision Electro Minerals Co., a Niagara Falls manufacturer of fused silica for solar-panel grade silicon and other industrial products that will create 13 new jobs and bring about the return to service and upgrade of two idled furnaces;

The Great Lakes Offshore Wind project, for advancing the development of wind power projects in the New York State waters of Lake Erie and Lake Ontario that would create at least 120 mw of clean energy and act as the catalyst to spur clean energy jobs throughout the region;

An up-to 100-mw photovoltaic solar project, with installations at various sites throughout New York, and which will position the state with the second highest PV-installed capacity in the country; and NYPA's commitment to invest \$1.4 billion by 2015 in energy efficiency projects, which will cut energy costs at schools, hospitals and other public facilities and provide increased opportunities for clean energy employment throughout the state.

The Power Authority's two trustees from Erie County—D. Patrick Curley of Orchard Park and Elise M. Cusack of Eggertsville—were among the board members on Tuesday voting unanimously for the hydropower allocation to Sunworks Solar.

"The Power Authority is excited by the prospect of Sunworks Solar coming to Western New York from our allocation of Niagara hydropower," Curley said. "In effect, we're using one form of renewable energy for producing another, contributing to the state's efforts under Governor Paterson toward greater alternative energy use, reduced greenhouse gas emissions and attracting businesses at the cutting edge of green technologies."

"The hydropower allocation approved today for Sunworks Solar is an outstanding example of the Power Authority's resolve under Governor Paterson to help diversify

Western New York's economy by helping to establish new industries, particularly those engaged in clean energy," Cusack said. "This is something we've been applying our best efforts toward in our allocations of hydropower. It is gratifying to see we're making progress on this front, in cooperation with local and state economic development agencies."

The Western New York Advisory Group (WNAG), consisting of the Power Authority, National Grid, Empire State Development Corp., the Buffalo Niagara Enterprise and the Niagara County Department of Economic Development, supported the Sunworks Solar allocation. The WNAG was established in 2003 to help identify qualified companies for the available amounts of Replacement Power and Expansion Power.

"The hydropower allocation by NYPA is the cornerstone of our efforts for bringing Sunworks Solar to Western New York," said Thomas A. Kucharski, president and chief executive officer of the Buffalo Niagara Enterprise, a nonprofit regional marketing organization that has been assisting Sunworks with their project. "This will keep us on track in working with Sunworks to keep the cost of production globally competitive, and in identifying a suitable Western New York site for the facility's construction and operation."

About NYPA:

■ *The New York Power Authority uses no tax money or state credit. It finances its operations through the sale of bonds and revenues earned in large part through sales of electricity.* ■ *NYPA is a leader in promoting energy efficiency, new energy technologies and electric transportation initiatives.* ■ *It is the nation's largest state-owned electric utility, with 18 generating facilities in various parts of New York State and more than 1,400 circuit-miles of transmission lines.* ■ *About 75 percent of the electricity it produces is clean renewable hydropower. Its lower-cost power production and electricity purchases support hundreds of thousands of jobs throughout the state.* ■ *For more information, www.nypa.gov.*

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