

222 MOUNT AIRY ROAD, SUITE 200
BASKING RIDGE, NJ 07920-2335
(P) 908.753.8300
(F) 908.753.8301
WWW.BMG.LAW

MURRAY E. BEVAN
mbevan@bmg.law

October 26, 2017

VIA FEDERAL EXPRESS AND EMAIL

The Honorable Irene Kim Asbury
Secretary, New Jersey Board of Public Utilities
44 South Clinton Avenue, 3rd Floor, Suite 314
Post Office Box 350
Trenton, NJ 08625-0350
irene.asbury@bpu.state.nj.us

OCT 27 2017

EO 17101114

Re: I/M/O the Verified Petition of Public Power Association of New Jersey for Approval of the Allocation of Power Generated By the Hydroelectric Power Project on the Saint Lawrence River to New Jersey's Municipally Owned Utilities and Electric Co-operative and Their Customers

Dear Secretary Asbury:

This firm represents the Public Power Association of New Jersey ("PPANJ") in the above-captioned matter. Enclosed for filing please find the original and ten (10) copies of the following:

1. PPANJ's Petition for Approval of the Allocation of Power Generated By the Hydroelectric Power Project on the Saint Lawrence River to New Jersey's Municipally Owned Utilities and Electric Co-operative and Their Customers;
2. Verification of Brian Vayda; and
3. Certification of Service.

A check in the amount of \$25.00 is also enclosed for the requisite filing fee. Copies are being provided to the service list by electronic mail or regular mail.

CMS
LEGAL
DAG
RPA
S. PETERSON
T. WALKER
ENERGY(4)

Respectfully submitted,

Murray E. Bevan

Enclosures

cc: Attached Service List

**STATE OF NEW JERSEY
BOARD OF PUBLIC UTILITIES**

_____)
In the Matter of the Verified)
Petition of)
)
PUBLIC POWER ASSOCIATION OF NEW)
JERSEY)
)
)
for Approval of the Allocation of Power Generated)
By the Hydroelectric Power Project on the)
Saint Lawrence River to New Jersey's Municipally)
Owned Utilities and Electric Co-operative)
and Their Customers)
_____)

OCT 27 2017

Docket No. ED17101114

VERIFIED
PETITION

Pursuant to Executive Order No. 210 (1989), the New Jersey Board of Public Utilities ("BPU" or "Board") retains regulatory jurisdiction over the purchase and allocation of power generated by the hydroelectric power project on the Saint Lawrence River and directed that the Public Power Association of New Jersey ("PPANJ" or "Petitioner") to act as bargaining agent on behalf of New Jersey. PPANJ's members are the nine (9) municipally-owned utilities and one (1) electric co-operative operating in New Jersey.¹ On behalf of its members, PPANJ respectfully requests that the Board exercise its regulatory authority and re-allocate the power generated by the Saint Lawrence River power project to the State's municipally-owned utilities and electric co-operative.

¹ They are the Borough of Butler, the Borough of Lavallette, the Borough of Madison, the Borough of Pemberton, the Borough of Park Ridge, the Borough of South River, the Borough of Seaside Heights, the Borough of Milltown, the City of Vineland, and Sussex Rural Electric Co-op.

Executive Order No. 210 (1989) authorizes PPANJ to act as the bargaining agent on behalf of New Jersey to:

“[N]egotiate and administer contracts with the Power Authority of the State of New York, and to provide for the allocation of power generated by hydroelectric power projects on the Niagara and Saint Lawrence Rivers to New Jersey and to its residential electric customers according to the terms of the contracts and licenses of such hydroelectric projects.” Order at p. 1.

Under Executive Order No. 210 (1989), the Board retains regulatory jurisdiction over the purchase and allocation of that power to New Jersey’s residential customers and is empowered to establish rates and regulations for such power. PPANJ is required to submit annual reports to the Board providing information on the amount and cost of the power delivered to New Jersey, the allocation of the power to New Jersey residential customers, and any modifications to the contractual relationship with the Power Authority of the State of New York (the “NYPA²”).

Pursuant to an “Agreement Governing the Administration of NYPA Power” dated December 17, 2004 (“2004 Agreement”), PPANJ serves as Bargaining Agent for the St. Lawrence Allocation. Jersey Central Power and Light Company (“JCP&L”), an investor-owned utility (“IOU”), serves as Scheduling and Transmission Agent for the St. Lawrence Allocation. As Scheduling Agent, JCP&L is the nominal recipient on behalf of itself and the other IOUs, and distributes the net economic benefit (or loss) from the St. Lawrence Allocation to the other IOUs in accord with the terms and appendices to the 2004 Agreement.³

² The capacity and associated energy from certain hydroelectric power projects on the Niagara and Saint Lawrence Rivers and allocated by NYPA to New Jersey is referred to herein as the “St. Lawrence Allocation.”

³ The other New Jersey IOUs are Public Service Electric and Gas Company (“PSE&G”), Atlantic City Electric Company (“ACE”), and Rockland Electric Company (“RECO”).

PPANJ has monitored the savings associated with the hydroelectric power project at the Saint Lawrence River pursuant to its obligation to administer the State's contracts with the NYPA. Currently, the savings associated with the Saint Lawrence project are socialized across all residential New Jersey electric customers, including the distribution customers of the IOUs as well as the residential customers served by PPANJ members. Continued socialization of these savings, however, is no longer cost-effective for the IOUs and no longer serving its intended purpose. PPANJ respectfully requests that the Board accept its recommendation to allocate 100 percent of the St. Lawrence Allocation to municipally-owned and co-operative electric utilities.

By way of background, electric output from the Saint Lawrence project is sold under the NYPA's Preference Rate Tariff, the lowest rates available from NYPA. The Preference Rates were established for sales from the NYPA's Niagara Power Project. Pursuant to the Niagara Redevelopment Act (the "NRA"), preference and priority in the sales from the Niagara Power Project must be given to municipal and cooperative utilities. Municipal utilities and co-operatives are known as "preference entities." As bargaining agent for New Jersey, PPANJ secured similar Preference Rates in the current federal license for Saint Lawrence for preference entities. The recommendations in this petition will result in benefits to New Jersey that are consistent with the intent of the NRA and extended by the federal license to the Saint Lawrence project.

A review of the annual reports filed by PPANJ with the Board, as required by Executive Order No. 210 (1989), shows that while the Saint Lawrence project savings are growing for those customers in PPANJ-member territories, those savings are not having the same effect on customers in IOU territories.

Annual Savings Per Customer (from Annual Report to BPU)	Muni & Co-op	IOUs
2007	\$24.30	\$1.06
2008	\$34.88	\$1.06
2009	\$51.55	\$0.55
2010	\$54.88	\$0.84
2011	\$56.99	\$0.75
2012	\$56.49	\$0.45
2013	\$56.86	\$0.40
2014	\$65.87	\$0.32
2015	\$43.66	\$0.32
2016	\$50.20	\$0.12
Average	\$49.57	\$0.59

As demonstrated in the above chart, over the last ten (10) years, customers in municipally-owned or co-operative territories have realized twice as much in savings from Saint Lawrence, while the savings for IOU-customers, already low, have decreased by approximately 90% of their value. Moreover, the IOUs themselves incur administrative expenses associated with the St. Lawrence Allocation.

According to PPANJ's calculations, if the Saint Lawrence savings had been dedicated to the municipally-owned utilities and the electric co-operative, those entities would have saved the average customer \$50.17 per year, or approximately 3.22%. The following chart demonstrates how these savings would have been achieved over the same ten (10) year period:

Year	Muni & Co-Op Customers	Average Contract Cost	St. Law Avg. Cost	Avoided Cost	IOU kWh Purchased	Avg. Saved Per Customer
2007	77,498	\$0.056	\$0.016	\$0.040	63,027,561	\$32.53
2008	77,498	\$0.074	\$0.027	\$0.047	68,196,998	\$41.36
2009	77,500	\$0.095	\$0.021	\$0.074	57,362,691	\$54.77
2010	76,105	\$0.096	\$0.021	\$0.075	66,006,917	\$65.05
2011	74,711	\$0.099	\$0.021	\$0.078	71,130,600	\$74.26
2012	76,742	\$0.095	\$0.020	\$0.075	66,335,664	\$64.83
2013	74,034	\$0.098	\$0.025	\$0.073	50,892,617	\$50.18
2014	73,712	\$0.078	\$0.024	\$0.054	65,590,287	\$48.05
2015	75,050	\$0.075	\$0.028	\$0.047	56,969,406	\$35.68
2016	74,281	\$0.078	\$0.027	\$0.051	52,700,976	\$36.47
Average	75,713	\$0.084	\$0.023	\$0.061	61,821,372	\$50.17

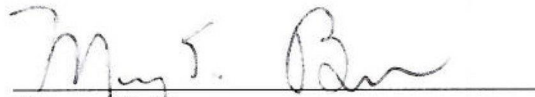
It is abundantly clear that the Saint Lawrence savings have the potential to achieve greater savings for PPANJ-member entities' customers than these savings do when socialized across all customers in the State. Moreover, the minimal savings achieved for IOU-customers are often decreased by the administrative costs of the program.

In addition, New Jersey has the ability to allocate its share of the Saint Lawrence savings to municipally-owned utilities and the electric co-operative. Connecticut, Rhode Island, and Ohio have all allocated the Saint Lawrence savings to preference utilities because socialization of the savings across the respective states dilutes the value of the savings to nearly nothing. As demonstrated in the first table, this is also happening in New Jersey.

PPANJ recommends that the Board allocate the entire St. Lawrence Allocation to the State's preference entities, in order to ensure cost-effective treatment of these savings. In addition, PPANJ respectfully requests that the Board handle this matter in an expedited fashion,

direct that the administrative responsibilities for administration of the St. Lawrence allocation be handled by PPANJ, and direct the IOUs and PPANJ to file tariffs or other necessary documentation within 60 days of the Board's Order.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Murray E. Bevan", is written over a horizontal line.


Murray E. Bevan
Bevan, Mosca & Giuditta P.C.
Counsel, Public Power Association of New Jersey
222 Mount Airy Road, Suite 200
Basking Ridge, NJ 07920
(908) 753-8300
mbevan@bmg.law

October 26, 2017

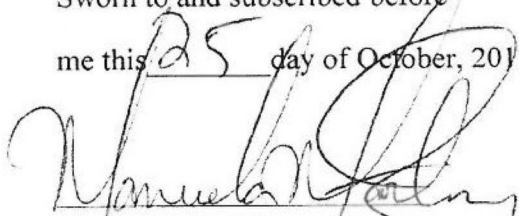
VERIFICATION

I, Brian Vayda, of full age, hereby depose and say:

1. I am the Executive Director of the Public Power Association of New Jersey, the Petitioner in this matter;
2. I make this Verification in support of the Petition of the Public Power Association of New Jersey for Approval of the Allocation of Power Generated by the Hydroelectric Power Project on the Saint Lawrence River to New Jersey's Municipally Owned Utilities and Their Customers; and
3. I have read the Petition and state that the factual allegations contained therein are true to the best of my knowledge, information and belief.

By: 
Brian Vayda
Executive Director

Sworn to and subscribed before
me this 25 day of October, 2017


Notary Public
My commission expires 3-23-2020

COMMONWEALTH OF PENNSYLVANIA
NOTARIAL SEAL
Mariana Martinez, Notary Public
Hazleton City
Luzerne County
My Commission Expires 03-23-2020