



Robert P. Astorino  
County Executive

Public Utility Service Agency  
Thomas M. Geiger, Chair

14796

October 20, 2010

To: Honorable Members of the Board of Acquisition and Contract

From: Thomas M. Geiger, Chair  
County of Westchester Public Utility Service Agency

RE: Resolution authorizing the County of Westchester, through the County of Westchester Public Utility Service Agency, to enter into two (2) Agreements with The Excelsior Packaging Group, Inc. for the sale of lower cost Municipal Distribution Agency power with one agreement from June 1, 2008 through May 31, 2013 and one agreement from June 2, 2010 through June 1, 2015

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The County of Westchester Public Utility Service Agency (“COWPUSA”), pursuant to the purposes and provisions of Chapter 875 of the Laws of Westchester County, entered into an agreement with the Power Authority of the State of New York (“NYPA”) for the purchase of lower cost economic development power. Such power is distributed to eligible businesses in Westchester through the Consolidated Edison Company of New York, Inc.’s (“Con Edison”) transmission and distribution system in accordance with a separate agreement between the County and Con Edison. This power is used to stimulate employment and economic growth in the County.

Pursuant to the above referenced agreements, COWPUSA obtains Municipal Distribution Agency (“MDA”) power from NYPA and provides such power through Con Edison’s distribution system in accordance with NYPA’s Service Tariff No. 35.

Due to uncertainty as to the structure and funding of all of the Economic Development Programs, including the MDA program, the State Legislature has over the last few years authorized the continuation of these programs on a year by year basis and NYPA has extended the allocation of power on such a basis. Accordingly, new contracts were not issued. Due to anticipated changes in the program(s) it is imperative that COWPUSA and the MDA customers enter into contracts so that there is no “gap” in the periods covered by the contracts.

COWPUSA will continue to provide MDA power to The Excelsior Packaging Group, Inc. ("Excelsior"), 159 Alexander Street, Yonkers, New York 10701. Tyco Plastics LP had previously been granted an allocation of MDA power for a facility located in Yonkers, New York. That facility was acquired by Berry Plastics Corp. ("Berry"), which then transferred that facility to Excelsior Extrusion, a wholly owned division of Excelsior. If Excelsior had not acquired this facility the jobs provided by this business would have been lost. NYPA has authorized Excelsior to receive the allocation of MDA power that was previously allocated to Berry effective June 2, 2010.

The proposed agreements will serve a public purpose as they will foster employment and economic growth in Westchester. The high cost of electricity in the Con Edison service territory is a concern to businesses and factors into their decision to remain in or relocate to Westchester County. The goals and objectives of the proposed agreements are in the best interests of the County in terms of fiscal responsibility, as the provision of MDA power will provide lower cost electricity thereby encouraging these businesses to remain in Westchester and continue to provide employment opportunities, thereby contributing to the economic health of the County. Furthermore, in terms of fiscal responsibility, Excelsior has provided a security deposit for its original allocation and will be required to provide a security deposit for the allocation transferred to it from Berry. The Department of Finance, on behalf of COWPUSA, will timely bill this customer and monitor its payments to make sure that they are received in a timely manner.

The goals and objectives of the proposed agreements will be tracked and monitored by COWPUSA.

COWPUSA's Commissioners, at a duly constituted meeting, voted to enter into the above captioned agreements, subject to the approval of your Honorable Board. Accordingly, it is respectfully requested that your Honorable Board approve the attached resolution to authorize the County, through COWPUSA, to enter into the two proposed agreements with The Excelsior Packaging Group, Inc. 159 Alexander Street, Yonkers, New York 10701, one for the continued sale of up to 525 kW of Municipal Distribution Agency economic development power from June 1, 2008 through May 31, 2013 and one for the sale of up to 835 kW of Municipal Distribution Agency economic development power to The Excelsior Packaging Group, Inc. for use by its wholly owned division, Excelsior Extrusion, 159 Alexander Street, Yonkers, New York 10701 for the period June 2, 2010 through June 1, 2015.

Accordingly, your favorable action on the annexed Resolution is most respectfully urged and recommended.

TMG/SMG:me

**RESOLUTION**

Upon a communication from the Chair of the County of Westchester Public Utility Service Agency, be it hereby

**RESOLVED**, that the County of Westchester is authorized to enter into and execute an agreement providing for the sale of up to 525 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to The Excelsior Packaging Group, Inc. 159 Alexander Street, Yonkers, New York 10701, for a term from June 1, 2008 through May 31, 2013 and; be it further

**RESOLVED**, that the County of Westchester is authorized to enter into and execute an agreement providing for the sale of up to 835 kW of Municipal Distribution Agency economic development power through the County of Westchester Public Utility Service Agency to The Excelsior Packaging Group, Inc. for use by its wholly owned subsidiary, Excelsior Extrusion, 159 Alexander Street, Yonkers, New York 10701, for a term from June 2, 2010 through June 1, 2015 and; be it further

**RESOLVED**, that such power will be provided in accordance with the applicable service tariff as approved by the New York State Public Service Commission and in accordance with the applicable tariff adopted by the Power Authority of the State of New York and; be it further

**RESOLVED**, that the Westchester County Executive or his duly authorized designee is hereby authorized and empowered to execute any and all documents necessary or appropriate to effectuate the purpose hereof.

Account to be Charged/Credited

Fund	Dept	Major Program, Program & Phase Or Unit	Object/ Sub Object	Trust Account	Dollars

Budget Funding Year(s) \_\_\_\_\_ Start Date 6/01/08 End Date 5/31/13  
 (must match resolution) Start Date 6/02/10 End Date 6/01/15

Funding Source \_\_\_\_\_ Tax Dollars \_\_\_\_\_  
 \_\_\_\_\_ State Aid \_\_\_\_\_  
 \_\_\_\_\_ Federal Aid \_\_\_\_\_  
 (must match resolution) Other Revenue \_\_\_\_\_