



# EMPOWER NIAGARA APPLICATION

2009

**Samuel M. Ferraro, Commissioner  
Niagara County Department of Economic Development**

## Empower Niagara – Niagara County Center for Economic Development

6311 Inducon Corporate Dr. - Sanborn, New York 14132

**Empower Niagara:** The Niagara County Center for Economic Development is serving as the administrative organization, on behalf of the Niagara County Legislature, to review and select industrial businesses eligible for low cost power in Niagara County. Empower Niagara is a non-for profit Development Corporation that is authorized to enter in to agreements for the purposes of providing certain electric power benefits to those industries that meet the qualifying criteria and receive approval.

**Who is involved:**

- 1) Niagara County Legislature & Attorney
- 2) Empower Niagara & Attorney
- 3) Industrial Client & Attorney

**Qualifying Criteria May Include:**

1. Company must be located in Niagara County
2. Company must not already be a recipient of low-cost power through existing state programs, or receive a separate allocation during the term of the contract under the Empower Niagara program
3. Company is planning to acquire or expand an existing facility or build a new facility
4. Project will create new electric demand (there must be at least 75kW of net new load)
5. Project must result in the retention and/or creation of jobs
6. Proposed use of power results in economic benefit to Niagara County
7. Must complete project in 2 years, with construction beginning within year after application approval
8. Company must be willing to commit in writing to create and/or maintain jobs
9. Empower Niagara will strive to commit a power allocation for a period of at least three years

**Process:**

1. Company submits application to Empower Niagara.
2. Empower Niagara Advisory Group (ENAG) makes site visit to company.
3. ENAG conducts conference call to discuss application.
4. ENAG makes recommendation to the Economic Development Committee of the Niagara County Legislature, which in turn will send recommendations to the Niagara County Legislature.
5. Niagara County Legislature, at one of its regular meetings (1<sup>st</sup> or 3<sup>rd</sup> Tuesday of the month) votes on the ENAG application recommendation.

6. An annual audit will be conducted, at the expense of the applicant, to ensure project completion and retention and creation of jobs.

**Application Evaluation:** Applications will be evaluated on a competitive basis based on capital investment; number of jobs created and/or maintained; types of jobs created and/or maintained; amount of net new load; consistency of application with Niagara County economic development efforts and steps taken to reduce existing energy costs.

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### **Application for Empower Niagara Assistance**

(Revised as of March 30, 2009)

Please answer all questions on this **Empower Niagara Application Form**. Information submitted as part of this application will not be made public prior to the passage of an Official Action Resolution by the Niagara County Legislature. After such action, this information may be subject to disclosure under the New York State Freedom of Information Act. Any information (Attachments) that may be of a confidential nature that would have an impact on your business if disclosed should be labeled "CONFIDENTIAL" such as marketing or financial information.

#### **I. Company Data**

A. Company Name:

Address:

Address:

Telephone:

Fax:

Email:

Website:

IRS Identification No.:

Company official completing this application and authorized representative of company:

Name:

Title:

B. Legal Counsel:

Address:

Telephone:

Fax:

Email:

C. Accountant (Firm):

Address:

Telephone:

Fax:

Email:

D. Type of Business      Corporation      Sub Chapter S      Partnership  
   Sole Proprietorship                      Other

E. Is Company authorized to do business in New York State?      Yes      No

F. List subsidiary, associate, and/or affiliated companies of applicant.

G. Is the Company, any owner, majority shareholder, officer or management personnel of the Company now a plaintiff or a defendant in any civil or criminal litigation?  
   Yes                      No

Has any owner, majority shareholder, officer or other management personnel of the company ever been convicted of a criminal offense (other than a minor traffic violation)?  
Yes                      No

Has any owner, majority shareholder, officer or other management personnel of the company, either individually or in association with any concern with which such person has been connected ever been in receivership or been adjudicated a bankrupt?  
Yes                      No

**II. Business Data**

A. Company Background

1. Describe when and where was the company established?
2. Provide a brief description of the company and its history.
3. Describe the type of business
4. List all existing facilities located in New York State. Give location, products manufactured and number of permanent employees.

<u>Name of Facility</u>	<u>Location</u>	<u>Product(s)</u>	<u>Jobs</u>
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(Attach additional sheet if required)

5. List your major facilities in other states and countries and the products that you manufacture there.

<u>Name of Facility</u>	<u>Location</u>	<u>State/Country</u>	<u>Products</u>
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(Attach additional sheet if required)

- B. List names and locations of major competitors in your line of business in New York State and any other major domestic or foreign competitors:

<u>Name of Competitor</u>	<u>Location</u>
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(Attach additional sheet if required)

- C. List names and locations of major suppliers (top 3)

<u>Name of Supplier</u>	<u>Location</u>
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(Attach additional sheet if required)

- D. What percentage of the facility's purchases of goods and services are made within New York State? \_\_\_\_\_ %
- E. List names and locations of major customers (top 3): (Add additional sheets if necessary)

<u>Name of Customer</u>	<u>Location</u>
1	_____
2	_____
3	_____

**III. Project Data**

A. Existing Project Facilities:

- 1. Parcel Size:                      Acres    OR                      ft. x                      ft.
- 2. Are there existing buildings on the Project site?    Yes    No.
- 3. Present zoning of site:

B. 1) Address where proposed expansion will be located:

2) Total kilowatts requested for project(s): \_\_\_\_\_ (kW)

C. Proposed Project Facility and Equipment

- 1. Does part of the Project consist of the acquisition or construction of a new building or buildings?    Yes    No.                      Indicate number and size of new buildings:

Does part of the Project consist of additions and/or renovations to existing buildings located on the Project site?    Yes    No.                      Indicate the buildings to be expanded or renovated, the size of any expansions and the nature of expansion and/or renovation:

- 2. Describe the principal uses to be made by the Company of the building or buildings to be acquired, constructed or expanded:
- 3. List machinery and equipment to be installed and whether new or used, the amount of kW it will require, and estimated costs of the additional machinery and equipment. Segregate by separate programs:

<u>Machinery/ Equipment</u>	<u>Used/ New</u>	<u>Required kW kWh</u>	<u>Dollar Investment</u>
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4. Describe the principal uses to be made of the Equipment to be acquired:

D. Is this a single phase or multi-phase project?                      Single                      Multi

Phase I or Single Phase Activities:

Phase II Activities:

Phase III Activities:

E. Have any contracts or purchases been made, committed and/or executed toward the project?                      No                      Yes,                      If yes, please provide detail:

F. Has any work toward the completion of the project been initiated?  
No                      Yes                      If yes, please provide detail:

G. Describe the reasons why this project is necessary and what effect it will have on your company:

H. Indicate the time schedule for each phase of your expansion project. Construction must be started within 1 year of allocation approval. Project(s) must be completed within 2 years:

<u>Start Construction</u>	<u>M&amp;E Installation Complete</u>	<u>Facility Complete</u>	<u>Start Operations</u>
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**IV – Electric Power Requirements**

- A. 1. How much additional demand will result from this project(s) \_\_\_\_\_kW.
2. How much additional energy? \_\_\_\_\_kWhrs.

3. Explain your basis for demand and energy estimates (i.e. diversity, connected load, etc.)
- B. Describe the facility's usage patterns, which may occur after your expansion (i.e. seasonal, time-of-day, annual outages, number of shifts, etc):
- C. What will the delivery voltage be after the expansion? \_\_\_\_\_ kV  
Will you own the transformer: Yes \_\_\_\_\_ No \_\_\_\_\_
- D. Have you obtained an estimate of the costs which may be involved if your electric service requires upgrading to be capable of taking delivery of Low Cost Power at 4460 volts or higher? Yes \_\_\_\_\_ No \_\_\_\_\_  
**(The upgrade can be costly and may affect the economics of the project.)**
- E. **Attach copies of your electric bills for this site for the most recent 12 months**  
Include any billing backup detail of usage. We will calculate the following electric usage and service information from these bills. **(There will be a delay in processing if these bills are not received):**

Please indicate who the electric utility is at the project site:

National Grid \_\_\_\_\_

New York State Electric & Gas \_\_\_\_\_

Existing Delivery Service \_\_\_\_\_

Month	Demand (kW)	Energy (kWh)	Days in Month	Load Factor

- F. What are your current power usage and requirements?
- Does your company own the transformer? Yes \_\_\_\_\_ No \_\_\_\_\_
  - What is the present delivery voltage (kV)?
  - Detail facility usage patterns (eg., seasonal, time-of-day, plant outages, # of shifts, etc.)
  - What is the cost of electricity as a percentage of production at facility? What costs are included in base?
  - Describe any utility discount, rebate or incentive programs that your company has participated in during the past 3 years:



- 6. When was your most recent energy audit or assessment performed and who conducted it?
- 7. Describe recent or planned efforts to reduce energy costs, including demand management and conservation measures.

G. If this expansion project is a relocation of an existing facility, explain where you are relocating from, why you are planning a relocation, the size of the existing facility, the power usage (kW and kWh) at the existing facility, and the number of people employed there. **(Include copies of electric bills for the most recent 12-month period. Include billing backup detail of usage.)**

**V. Employment Impact**

Indicate below the number of people presently employed at the Project site and the number that will be employed at the Project site at end of the first and second years after the Project has been completed (Do not include construction workers). Also indicate below the number of workers employed at the Project site representing newly created positions as opposed to positions relocated from other project sites of the applicant.

1) Provide the number of new permanent jobs (salaried and hourly) which will be created within the next three years of each program of your expansion project and the related wages and benefits. Provide subtotals for each program and an overall total. **This information will be part of the basis of your contract commitment for power.**

2) Provide the number of existing production jobs directly impacted by this project.

3) What benefits other than social security, unemployment insurance and workers compensation taxes are included in the chart?

Program	Job Title	# of Jobs	Average Annual Wage	Average Annual Benefits	Total wage Including Benefits	Date Added
1						
2						
3						
4						
5						

**VI. Project Cost Data**

A. Give breakdown of project costs:

Land	\$
Buildings: Acquisition	\$
Renovation	\$
New Construction	\$
Demolition	\$
Utilities and Road	\$
Site work and preparation	\$
Acquisition of machinery & equipment	\$
Installation	\$
Architectural and engineering fees	\$
Legal fees	\$
Interest during construction	\$
Other	\$
TOTAL	\$

B. Will other forms of government financing be used to undertake the project:  
 No    Yes    If yes, please provide detail:

Program	Amount	Status

**VII. Financial and Feasibility Data**

A. Describe the need or demand for the product or services to be provided as a result of the project and it's impact on your business:

B. Has the company utilized this program before?  
 No    Yes    If yes, describe when, where and amount:

C. Are other forms of government assistance being utilized for this project?  
 No    Yes    If yes, describe when, where and amount:

D. Provide any marketing, economic / feasibility or business plans that have been developed for this project.

## VIII. Representations By The Applicant

The applicant understands and agrees with the following:

A. Job Listings. In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any Assistance from the Corporation / County, except as otherwise provided by collective bargaining agreements, new employment opportunities created as a result of the Project will be listed with Niagara WorksourceOne\* and the New York State Department of Labor Community Services Division (the "DOL") and with the administrative entity (collectively with the DOL, the "JTPA Entities") of the service delivery area created by the federal job training partnership act (Public Law 97-300) ("JTPA") in which the Project is located.

B. First Consideration for Employment: In accordance with Section 858-b(2) of the New York General Municipal Law, the applicant understands and agrees that, if the Project receives any Financial Assistance from the Corporation / County, except as otherwise provided by collective bargaining agreements, where practicable, the applicant will first consider persons eligible to participate in JTPA programs who shall be referred by the JTPA Entities for new employment opportunities created as a result of the Project.

C. Annual Employment Reports: The applicant understands and agrees that, if the Project receives an allocation of low-cost hydropower from Empower Niagara, the applicant agrees to file, or cause to be filed, with the Agency, an annual job audit reporting the number of people employed at the project site. Applicant understands that it must remain within 85% of the total number of new and existing jobs reported in the application in order to avoid a possible reduction or loss of power allocation.

D. Absence of Conflicts of Interest: The applicant has received from the County a list of the members of the Empower Niagara Advisory Board (ENAB). No member the ENAB has an interest, whether direct or indirect, in any transaction contemplated by this Application.

E. Duration of Low-Cost Power Agreement: The applicant understands that if granted an allocation of low-cost power from Empower Niagara, that the agreement for use of the low-cost power runs from the date the company begins to receive the benefits of their power allocation. The applicant must notify the ENAB in writing on their intent to seek an extension of the agreement. Ninety (90) days prior to the expiration of the agreement, the Empower Niagara Advisory Board (ENAB) may begin a review process. The decision of whether or not an agreement will be extended will be in the sole discretion of the Niagara County Legislature.

## CERTIFICATION – HOLDHARMLESS AGREEMENT

(To be executed by the principal of the applicant and acknowledged by a notary public)

I. (Name of chief executive officer or other authorized representative of applicant) deposes and says that he/she is the (title) of (name of corporation or other entity) named in the attached Application (the "Applicant"); that he/she has read the foregoing Application and knows the contents thereof, and that the same is true to his/her knowledge.

II. The grounds for deponent's belief relative to all matters in the Application which are not stated upon his/her own personal knowledge, are investigations which deponent has caused to be made concerning the subject matter of the Application, as well as information acquired by deponent in the course of his/her duties as an officer of and from the books and papers of said corporation or other entity.

III. As an officer of the Applicant deponent acknowledges and agrees that the Applicant shall be and is responsible for all costs incurred by the County and all legal counsel for the County, including its general counsel, whether or not the Application, the proposed project it describes, the attendant negotiations, or the issuance of power or agreement are ultimately ever carried to successful conclusion and agrees that the County shall not be liable for and agrees to indemnify, defend and hold the County harmless from and against any and all liability arising from or expense incurred by (A) the County's examination and processing of, and action pursuant to or upon, the Application, regardless of whether or not the Application or the proposed project described herein or the benefits and other assistance requested herein are favorably acted upon by the County, (B) the County's assistance in the acquisition, construction and/or installation of the proposed project described herein and (C) any further action taken by the County with respect to the proposed project; including without limiting the generality of the foregoing, all causes of action and attorney's fees and any other expenses incurred in defending any suits or actions which may arise as a result of any of the foregoing.

IV. By executing and submitting this Application, the Applicant covenants and agrees to pay the following fees to the County through the Department of Economic Development:

The sum of \$500.00 as a non-refundable application processing fee to be paid upon submission of the Application to; **Niagara County Department of Economic Development;**

V. The Applicant acknowledges and agrees that all payment liabilities to the County are not dependent on finalization or final documentation of the transaction contemplated by this Application.

VI. The cost incurred by the County and paid by the Applicant, may be considered as a cost of the proposed project.

VII. The Applicant is aware and acknowledges that according to the New York Public Officer's Law, Article 6, Freedom of Information, the public has the right to request information about the project and the Applicant, and that in accordance with Public Officer's Law Article 7, meetings of the County, (as specified therein) are open to the public.

VIII. Upon application approval and upon execution of an agreement to allocate low-cost power to applicant, an annual audit will be conducted, at the expense of the applicant, to ensure project completion and retention and/or creation of jobs.

IX. The Applicant understands and acknowledges the full language and provisions covering the above will be in the Final Agreement, with such language available on request. The Applicant and the individual executing this Application on behalf of Applicant acknowledge that the County and its counsel will rely on the representations made in this Application when acting hereon and hereby represents that the statements made herein and therein do not contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading.

NOTARY  
Sworn to before me this \_\_\_ day of \_\_\_\_\_, 20

\_\_\_\_\_  
(Name of corporation or entity)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_ (Name of officer)

\_\_\_\_\_ (Title)12

\_\_\_\_\_ (Title)12