

Request for Intervenor Funds

Instructions: Provide all applicable information by filling in the text boxes as indicated.
If necessary, attach additional information in a separate document.

This request is to be submitted either electronically (preferred) or by regular mail.

To submit this request electronically, save your changes and attach it to an e-mail sent to:
secretary@dps.ny.gov

To submit this request by regular mail, print it and mail it to:

Secretary,
NYS Board on Electric Generation
Siting and the Environment
3 Empire State Plaza
Albany, NY 12223

Copies must also be submitted to the Presiding Examiner and other parties to the proceeding.

TO THE SECRETARY:

I hereby provide a request for intervenor funds in the following Article 10 case before the NYS Board on Electric Generation Siting and the Environment:

Case Number: 12-F-0410

Title of Case: Application of Cape Vincent Wind Power, LLC for a Certificate of Environmental Compatibility and Public Need to construct an approximate 200-285 Mega Watt Wind Energy Facility in the Town of Cape Vincent, New York.

Name of Party: Town of Lyme

Contact Person: Scott Aubertine, Supervisor or Mark G. Gebo, Esq.

Firm Name: Town of Lyme Hrabchak, Gebo & Lanong, PC

Contact Address: PO Box 66 216 Washington Street, STE 300
Chaumont, New York 13622 Watertown, New York 13601

Contact Telephone Number: (315) 649-2788 (315) 788-5900

Contact E-mail Address: supraubertine@townoflyme.com mgebo@gebolaw.com

Amount of Funds Requested: Up to the Maximum of:

\$3,000.00 Legal Services
8,000.00 Engineering Services
\$11,000.00

For Assistance with the PSS and stipulation phase.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

The basis of eligibility for intervenor funds is as follows: (Check one)

- Eligible Municipal Party** [County, city, town or village located in New York State that may be affected by the proposed major electric generating facility]
- Eligible Individual Local Party** [Person residing in a community who may be individually affected by the proposed major electric generating facility]
- Eligible Group Local Party** [Persons residing in a community who may be collectively affected by the proposed major electric generating facility]

1(a) Provide a statement of the number of persons the requesting party represents:

The Town of Lyme is representing itself.

1(b) Provide a statement of the nature of the interests the requesting party represents:

The Town of Lyme has been granted intervenor status. The Town of Lyme is affected by the project due to the proximity of the proposed towers to the Town boundaries and the fact that the transmission line for the power generated will be located in the Town of Lyme.

2(a) Provide a statement of the efforts that have been made to obtain funds from other sources:

The Town of Lyme has no separate agreement with the Developer to reimburse it as no application has been made to the Town of Lyme. The only other source of funds available would be tax payer money as surplus funds in the Town budget.

2(b) Provide a statement of the availability of funds from the resources of the requesting party:

As a municipality, the Town of Lyme is subject to a 2% tax cap. As a small municipality, the funds requested would raise the tax rate of the Town over 1% by itself. The Town cannot do this and stay within the 2% tax cap without exhausting its reserves. This would leave the Town and its citizens at risk.

2(c) Provide a statement of the availability of funds from the resources of sources other than the requesting party:

None known other than the intervenor funds.

3(a) Indicate the type of funds being sought: (Check one)

- Pre-Application Stage Funds** [Generally available upon the filing by the Project Applicant of a Preliminary Scoping Statement (PSS)]
- Application Stage Funds** [Generally available upon the filing by the Project Applicant of an Article 10 Application]

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

3(b) State the amount of funds being sought:

up to	\$ 3,000	for Legal Services
up to	8,000	for Engineering Services
	\$11,000	Total

4(a) If expert witnesses, consultants, attorneys, or others are to be employed, provide to the extent possible, the name and qualifications of each person to be employed:

- 1) Legal Services by Mark G. Gebo, Esq., of Hrabchak, Gebo & Langone, PC. Contract and resume attached at Exhibit "A"
- 2) Engineering services by Kris Dimmick of Bernier, Carr & Associates. Contract and resume attached as Exhibit "B".

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 4(b) If expert witnesses, consultants, attorneys, or others are to be employed and it is not possible to provide the name of each person to be employed, provide for each person that cannot be named a statement of the necessary professional qualifications for the person:

N/A

- 5 Provide, if known, the name of any other interested person or entity who may, or is intending to, employ any such expert witnesses, consultants, attorneys, or others:

Bernier, Carr & Associates is also providing services to the Town of Cape Vincent. Separate application is made by the Town of Lyme as the Town of Lyme issues are distinct from the Town of Cape Vincent. Cape Vincent is focused on the towers. Lyme is focused on the transmission line.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

6(a) For all expert witnesses, consultants, attorneys, or others to be employed, provide a detailed statement of the services to be provided:

See Exhibit "A" and "B"

6(b) For all expert witnesses, consultants, attorneys, or others to be employed, provide a detailed basis for the fees requested, including hourly fee, wage rate, and expenses:

See Exhibit "A" and "B"

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 6(c) For all expert witnesses, consultants, attorneys, or others to be employed during the Pre-Application Stage, provide a detailed statement specifying how such services and expenses will make an effective contribution to review of the Preliminary Scoping Statement and the development of an adequate scope of appropriate studies for the application to be submitted and thereby provide early and effective public involvement:

The Town of Lyme is a small Town with no prior experience with the Article X process. The Town Board consists of five elected officials for whom Board membership is a part time pursuit. None of the Board Members or other employees of the Town have experience or expertise sufficient to analyze and understand the processes and procedures or to conduct a detailed review of the Preliminary Scoping Statement (PSS).

Legal Services are needed to assure understanding of and compliance with procedures. Counsel will also be consulted as to legal issues involving the project as a whole and compliance with local, State and Federal Rules and Regulations. Legal services will be utilized to help draft, review and/or advise on responses to the PSS and other instruments required during the PSS review process.

Engineering services are needed to help review technical elements of the PSS for adequacy and to advise the Town Board on any deficiencies or corrections needed. The engineers will assist the Town in preparation of responses to the PSS. The engineers will also help educate Board Members as to engineering and design options as they might affect the Town.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 6(d) For all expert witnesses, consultants, attorneys, or others to be employed during the Application Stage, provide a detailed statement specifying how such services and expenses will contribute to the compilation of a complete record as to the appropriateness of the site and facility and will facilitate broad participation in the proceeding.

The consultants to be employed by the Town of Lyme will help to provide as complete a record as possible for the Siting Board. By analyzing and commenting on the issues that affect the Town of Lyme, particularly with the transmission line, it will help to give the Siting Board a full picture of the overall impacts of this project, not just the towers. Because of the length of the transmission line and sensitive areas which it will cross, including valuable and scenic waterfront properties and vistas, it is believed that the Town of Lyme's input will provide perspective that other intervenors will not. By having the Town of Lyme consultants focus on these issues, it will provide a full and complete discussion of concerns that arise based from the transmission lines location in the Town of Lyme

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

7(a) For any study to be performed, a description of the purpose of the study:

None planned at this time.

7(b) For any study to be performed, a description of the methodology and a statement of the rationale supporting the methodology:

See 7a.

7(c) For any study to be performed pursuant to any proposed methodology that is new or original, explaining why pre-existing methodologies are insufficient or inappropriate:

See 7a.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 7(d) For any study to be performed, provide a description of the timing for completion of the study and a statement of the rationale supporting the timing proposed:

See 7a.

- 8(a) For any study to be performed, a statement as to the result of any effort made to encourage the applicant to perform the proposed studies or evaluations and the reason it is believed that an independent study is necessary:

None planned at this time. In response to the PSS, the Town of Lyme identified several areas requiring more study. It is hoped that the Siting Board will direct the applicant to perform these studies which can then be further analyzed by the Town.

- 9 For all expert witnesses, consultants, attorneys, or others to be employed, provide a copy of any contract or agreement or proposed contract or agreement with each such expert witness, consultant, attorney, or other person.

See Exhibits "A" & "B"

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 10 Provide a statement of any additional justification for the funding request not already addressed above:

“A”

HRABCHAK, GEBO & LANGONE, P.C.

ATTORNEYS AT LAW

216 WASHINGTON STREET
SUITE 300
WATERTOWN, NEW YORK 13601
(315) 788-5900
TELECOPIER (315) 788-6085
mgebo@gebolaw.com

MARK G. GEBO
EUGENE J. LANGONE, JR.

ROBERT R. HRABCHAK
(1957-1995)

April 30, 2013

Scott Aubertine, Supervisor
Town of Lyme
PO Box 66
Chaumont, New York 13622

Re: Town of Lyme - Article X - Cape Vincent Wind Farm

Dear Mr. Aubertine:

This will confirm that this office has agreed to offer legal counsel services relative to assistance in review of the Preliminary Scoping Statement (PSS) for the Cape Vincent Wind Farm. It is our understanding that our services in this regard shall include

1. Review of the PSS;
2. Formulating comments on the PSS;
3. Meeting with Town Officials and Consultants on review of PSS;
4. Rendering advice on procedural issues relative to the PSS; and
5. Being available for telephone conferences and meetings and needed.

This office acts as general counsel to over thirty (30) communities in Northern New York and more particularly with respect to Wind Farms, Mr. Gebo served as general counsel to the Town of Martinsburg and Harrisburg in Lewis County with respect to the development the Maple Ridge Wind Project and the Roaring Brook Wind Project in the Town of Martinsburg. Mr. Gebo currently acts as special counsel to the Town of Denmark with respect to the Copenhagen Wind Farm project and has provided services to the Town of Cape Vincent with respect to the St. Lawrence Wind project and is capable therefore, of providing the services required.

Rates will be charged at \$135.00 per hour for the counsel services provided and Legal Assistant time will be charged at \$60.00 per hour with a maximum of \$3,000.00. Bills will be rendered on a monthly basis with payment expected within thirty (30) days. Each bill will contain a detailed listing of every

HRABCHAK, GEBO & LANGONE, P.C.

ATTORNEYS AT LAW

date on which work is performed, a description of the work performed on that date, the person performing the work and the time it took to perform that task. Out of pocket expenses will also be billed on a cost basis. Out of pocket expenses include, but are not limited to: postage, photocopies, long distance telephone calls, mileage, recording charges, abstracting fees, etc. These will also be detailed in each monthly bill, with payment expected within thirty (30) days, unless some other arrangement is made.

If these terms are agreeable to the Town, please so indicate by countersigning and returning one copy of this letter where indicated.

Very truly yours,

HRABCHAK, GEBO & LANGONE, P.C.



Mark G. Gebo, Esq.

MGG:dec

Enclosure

Read and agreed to this
9 day of May 2013.

TOWN OF LYME
By: 
Scott Aubertine, Supervisor

Mark G. Gebo, Esq.
Hrabchak, Gebo & Langone, P.C.

EDUCATION: State University at Albany, BA 1974
Cornell Law School JD 1977

**REGISTRATION/
CERTIFICATION:** Member of New York State BAR Association
Member of Jefferson County BAR Association
Admitted to Practice State of New York since 1978.

**CLIENT
RESPONSIBILITIES:** Mr. Gebo conducts a general practice law focusing on representing municipalities. He has represented municipalities since 1980. As such, he has represented municipalities as both general and special counsel in a wide variety of topics including land use topics. . Mr. Gebo also is a Red Book listed bond counsel providing services to the communities in Northern New York. The firm currently serves as general counsel to over thirty towns and villages and acts as special counsel to many others.

**CORPORATE
RESPONSIBILITIES:** The firm of Hrabchak, Gebo & Langone, P.C., is a firm consisting of two attorneys. Mr. Gebo is the only remaining founding member and the President of the firm which formed initially as Hrabchak & Gebo, P.C. in June of 1991.

EXPERIENCE: More specifically to wind projects, Mr. Gebo served as general counsel to the Town of Martinsburg and Harrisburg in Lewis County with respect to the development and permitting of the Maple Ridge Wind Project and the Roaring Brook Wind Project in the Town of Martinsburg. Mr. Gebo currently acts as special counsel to the Town of Denmark with respect to the Copenhagen Wind Farm project and has provided services to the Town of Cape Vincent with respect to the St. Lawrence Wind project

**CIVIC AND PUBLIC
AFFILIATIONS:** Big Brothers/Big Sisters of Northern New York, Past President
United Way of Northern New York, Past President
Greater Watertown North Country Chamber of Commerce, Past President
Alcohol & Substance Abuse Council
Neighbors of Watertown, President
Flower Memorial Library, Past President
Jefferson County Historical Society

“B”

BERNIER, CARR & ASSOCIATES
Engineers, Architects, and Surveyors
327 Mullin Street
Watertown, New York 13601
Phone (315) 782-8130 * Fax (315) 782-7192
AUTHORIZATION FOR PROFESSIONAL SERVICES

DATE: April 23, 2013 BC&A Project No: 2013-061

PROJECT NAME: Assistance in Review of the Preliminary Scoping Statement (PSS) for the Cape Vincent Wind Farm.
OWNER: Town of Lyme
ADDRESS: 12175 NYS Route 12E
Chaumont, New York 13622

I hereby request and authorize Bernier, Carr & Associates, Engineers, Architects & Surveyors (FIRM) to perform the following services:

SCOPE: Assist the Town with the review of the PSS; assist the Town in understanding the sufficiency and completeness of the application; inform the Town on the potential impacts of the project as proposed to the resident and property; and assist the Town as an intervenor under the Article 10 Legislation.
COMPENSATION: Hourly per the *Standard Rate Schedule* shown on Page 2 of this document with a *not to exceed* amount of \$ 8,000.
COMMENTS: N/A

Services covered by this authorization shall be performed in accordance with Provisions stated on the back of this form.

PROVISIONS

1. **Authorization to Proceed**
Signing this form shall be construed as authorization by the OWNER for the FIRM to proceed with the work.
2. **Salary Costs**
The FIRM'S Salary Costs shall be the amount of salaries paid the FIRM's employees for work performed on the OWNER'S project plus a stipulated percentage of such salaries to cover all payroll-related taxes, payments, premiums and benefits.
3. **Per Diem Rates**
The FIRM'S Per Diem Rates are those published in the FIRM'S office, which are charged for work performed on the OWNER'S project by the FIRM'S employees of the indicated classifications.
4. **Direct Expenses**
The FIRM'S Direct Expenses shall be those costs incurred on or directly for the OWNER'S project, including but not limited to: necessary transportation costs including mileage at the FIRM'S current rate, meals and lodging, laboratory tests & analyzes, computer services, printing and binding charges. Reimbursement for these expenses shall be on the basis of actual charges when furnished by commercial sources and on the basis of standard commercial charges when furnished by the FIRM.
5. **Professional Standards**
The FIRM shall be responsible, to the level of competency presently maintained by other practicing Professional Engineers, Architects, and Surveyors in the same type of work in the OWNER'S community, for the professional and technical soundness, accuracy and adequacy of all designs, drawings and specifications and other work and materials furnished under this Authorization.
6. **Termination**
Either the OWNER or the FIRM may terminate this Authorization by giving written notice to the other party. In such event, the OWNER shall pay the FIRM in full for all work previously authorized and performed prior to effective date of termination. If no notice of termination is given, relationships and obligations created by this Authorization shall be terminated upon completion of all applicable requirements of this Authorization.
7. **Payment to the FIRM**
Monthly invoices will be issued by the FIRM for all work performed under the terms of this agreement. Invoices are due and payable within 45 days upon receipt.
8. **Limitation of Liability**
The FIRM'S liability to the OWNER for any cause or combination of causes is, in the aggregate, limited to an amount no greater than the fee earned under this agreement.
9. **Indemnification**
 - A. **Asbestos** - For services involving or relating to asbestos as part of this agreement, it is further agreed that the OWNER shall indemnify and hold harmless the FIRM and their consultants, agents and employees from and against all claims, damages, losses and expenses, direct and indirect, or consequential damages, including but not limited to fees and charges of attorneys and court arbitration costs, arising out of or resulting from the performance of the work by the FIRM, or claims against the FIRM arising from the work of others, related to asbestos activities.

- B. Hazardous Waste - For services involving or related to hazardous waste elements of this agreement, it is further agreed that the OWNER shall indemnify and hold harmless the FIRM and their consultants, agents, and employees from and against all claims, damages, losses and expenses, direct and indirect, or consequential damages, included but not limited to fees and charges of attorneys and court and arbitration costs, arising out of or resulting from the performance of the work by the FIRM, or claims against the FIRM arising from the work of others, related to hazardous waste.
- C. The above indemnification provision extends to claims against the FIRM which arise out of, are related to, or are based upon, the dispersal, discharge, escape, release or saturation of smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids, gases or any other material, irritant, contaminant or pollutant in or into the atmosphere, or on, onto, upon, in or into the surface or subsurface (a) soil, (b) water or water-courses, (c) objects, or (d) any tangible or intangible matter.
- D. Design professional shall use his/her best efforts to conform the construction document to the requirements of any legislation protecting the disabled, including the Americans With Disabilities Act and regulations thereunder (collectively "disabled legislation"). However, the standards for design practice under disabled legislation are still evolving. Therefore, the design professionals shall not be responsible if any aspect of the design does not conform to disabled legislation and such interpretation was not generally known to similarly situated professionals when the plans were prepared.

Standard Rate Schedule:

Senior Principal	\$ 160 per hour
Principal	\$ 140 per hour
Associate	\$ 120 per hour
Expert Witness Testimony	\$ 200 per hour
Senior Structural Engineer	\$ 175 per hour
Senior Architect/Engineer	\$ 120 per hour
Intern Engineer (I.E.)	\$ 90 per hour
Architectural/Engineering Designer	\$ 90 per hour
Architect/Engineer Technologist	\$ 75 per hour
Architect/Engineer - Summer Intern	\$ 50 per hour
Project Development Specialist	\$ 95 per hour
Senior Project Representative	\$ 95 per hour
Project Representative	\$ 75 per hour
Senior C.A.D. Draftsperson	\$ 75 per hour
C.A.D. Draftsperson	\$ 65 per hour
Field Survey Crew (2-man, NYS prevailing rate)	\$ 180 per hour
Field Survey Crew (2-man, regular rate)	\$ 110 per hour
Survey Technician (office)	\$ 75 per hour
Environmental Analyst	\$ 175 per hour
Code Compliance Specialist	\$ 175 per hour
GPS Equipment	\$ 60 per hour
Support Services	\$ 50 per hour

In addition to the fees stipulated above, we shall be reimbursed for travel and incidental expenses as follows:

Travel by Air	actual cost
Travel by Auto (per mile)	as per IRS Standard Rate
Travel by Field Truck/Survey	as per IRS
Vehicle (per mile)	Standard Rate x 1.25
Other Expenses	Direct Cost + 15%

Additional and non-customary services provided beyond the Scope shall be invoiced for payment in accordance with the above schedule.

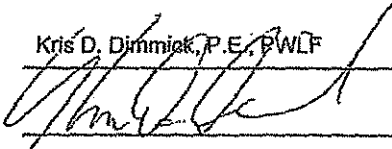
Approved for OWNER

By: 

Title: Town Supervisor

Date: May 9, 2013

Accepted for Bernier, Carr & Associates
Engineers, Architects, and Surveyors

By: Kris D. Dimmiak, P.E., P.W.L.F.


Title: Vice President of Operations

Date: 4/23/13

Kris D. Dimmick, P.E., PWLF

Vice President of Operations



Education

SUNY College of Environmental Science and Forestry
Master of Science –Environmental Resource Engineering, 1991

Registration/ Certification

Professional Engineer: New York (License No. 067230)
Public Works Leadership Fellow – Donald C. Stone Center for Leadership Excellence in Public Works (APWA), September 2011

Client Responsibilities

Mr. Dimmick is responsible for all aspects of municipal and public works engineering including water supply, treatment, and distribution; sanitary wastewater collection and treatment; transportation; storm water management; site development; environmental permitting; rate studies; asset management; consulting as Town Engineer to Planning Boards for land use planning; residential subdivision review; commercial site plans; and operational issues.

Corporate Responsibilities

Mr. Dimmick is responsible for client relations, new business development, quality control, coordination of client service teams, managing outside business support consultants, contract consistency, and managing operations consistent with overall corporate goals and objectives.

Experience

Mr. Dimmick started his career in 1985, became licensed in 1990, and joined Bernier Carr & Associates in 1991. Mr. Dimmick has specific expertise in community assistance and project development, funding, design, construction, and operations of Public Works.

Professional Affiliations

National Society of Professional Engineers
American Society of Civil Engineers
American Public Works Association
American Consulting Engineering Council
NYS Chapter Director and Alternate Delegate – American Public Works Association
Past Chair – CNY Branch of the American Public Works Association (2010 & 2011)
Evaluator – NYS PIE (#M000166-E04)



BERNIER CARR & ASSOCIATES

327 Mullin Street
Watertown, New York 13601
T (315) 782-8130 F (315) 782-7192
www.thebcgroup.com

Kris D. Dimmick, P.E., PWLF

Vice President of Operations

Civic/Public Affiliations

Affiliate Member – FDRLO

Affiliate – AUSA

Graduate – 2005 Tug Hill Leadership Institute

Member – NYS Board of Electrical Generation Siting and the Environment

Member – SUNY ESF Environmental Resource Engineering Advisory Council

Member – Public Management & Finance Program, Environmental Finance Center, Syracuse Center of Excellence

Past Member – Town of Hounsfield Republican Committee

Participant – Eisenhower Series College Program, March 28, 2008, in Watertown, New York

Participant – 55th Annual National Security Seminar, US Army War College, June 2009

Assistant Coach (Fall 2010 to 2012) – Watertown Pop Warner Football

Scholarship Coordinator – Watertown Pop Warner Football

Publications

Geotextile Edge Drain Design and Specification by Expert System, 1991

“Town of LeRay Commercial Corridor Planning – How a Small Town in NNY is Getting What They Planned For”; APWA REPORTER, June 2011

“Integrating Green Infrastructure into a Wastewater Treatment Plant Project in Sackets Harbor, New York”; APWA Reporter, January 2012

