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# CONBOY, MCKAY, BACHMAN & KENDALL, LLP

*Serving Northern New York Since 1876*

Watertown Office

March 16, 2018

## VIA EMAILING

Honorable Kathleen H. Burgess  
Secretary to the Commission (DPS DMM)  
New York State Public Service Commission  
Empire State Plaza Building 3  
Albany, NY 12223-1350

Honorable James A. Costello (James.Costello@dps.ny.gov)  
Administrative Law Judge  
Department of Public Service  
Three Empire State Plaza  
Albany, NY 12223-1350

Honorable Lisa Wilkinson (Lisa.Wilkinson@dec.ny.gov)  
Administrative Law Judge  
Department of Environmental Conservation  
625 Broadway, First Floor  
Albany NY 12233-1550

RE: Case No.: 16-F-0267 – Deer River Wind Energy Project, PSS Phase  
CMBK Matt No.: 38546.0002 (Town of Pinckney, Intervenor Funds Request)  
Spending reports: Q2, Q3 and Q4 of 2017

Dear Secretary Burgess, Judge Costello, and Judge Wilkinson,

Our firm represents the Town of Pinckney in Lewis County, New York, with respect to the Deer River Wind Project. On June 25, 2017, the Town was awarded \$16,000.00 out of the Applicant's Intervenor Fund, to be used for legal and engineering costs related to the Preliminary Scoping Statement phase of the Project.

The \$16,000.00 award was granted in response to a request for \$20,000.00, of which \$10,500.00 was earmarked for engineering fees for services provided by Bernier, Carr, and Associates and \$9,500.00 would be used to offset legal fees for services provided by Conboy, McKay, Bachman and Kendall, LLP.

Under 16 NYCRR 1000.10(c)(1)(vi), and the July 25, 2017 "Ruling on Intervenor Funding Requests", intervenor funding is approvable only for proposed legal and engineering services that "will contribute to the compilation of a complete record as to the appropriateness of the site and facility." For that reason, work that is performed for the Town but is not reimbursable under the intervenor funding guidelines is being invoiced separately. Such work includes reviewing zoning laws and negotiating PILOT agreements with the Applicant.

I am submitting information for the last three quarters for work that we understand was reimbursable directly through the intervenor fund. We neglected to timely file reports for the third and fourth quarters of 2017, and apologize for our error. We have since made changes to our billing practices with respect to municipal clients going through the Article 10 process and will strive to comply with future reporting requirements in a timely manner henceforth.

## **Overview of Work Performed in Q2, Q3, and Q4 of 2017**

Our firm was retained by Pinckney in October of 2015 to provide general legal assistance in all municipal matters. The Town was named as a potential site for wind development in early 2016, and since then, the firm has provided assistance to the Town in navigating the Article 10 process.

Our reimbursable work to date has included the following: reviewing stipulations and contracts, compiling and submitting comments to the Applicant and PSC, soliciting offers from and reviewing the service contract with the engineering firm Bernier Carr and Associates, working with the engineering firm with respect to stipulation comments and review of the preliminary scoping statement, and applying for intervenor funds.

The funds were awarded in order to offset the costs of the PSS phase – costs which are especially high for a town as sparsely populated as Pinckney, but for which the impact of development of this scale could be severe.

## **Expenses incurred for Q2, Q3, and Q4 of 2017**

For Q2, Q3, and Q4 of 2017, the town incurred \$13,842.09 in reimbursable expenses. A breakdown of those expenses is included with this letter.

The Town incurred \$4,436.98 in expenses for Q2 of 2017, consisting of 4,356.98 in legal fees and \$80.00 in engineering fees.

The Town incurred \$6,997.33 in expenses for Q3 of 2017, consisting of \$6,262.33 in legal fees and \$635.00 in engineering fees.

The Town incurred \$2,507.78 in expenses for Q4 of 2017, consisting of \$2,267.78 in legal fees and \$240.00 in engineering fees.

We are including figures for Q2 of 2017. We understand work performed in this quarter occurred before intervenor funds were awarded. However, it is my understanding that some of the work can be reimbursed, such as work performed reviewing the PIP and preliminary scoping statement.

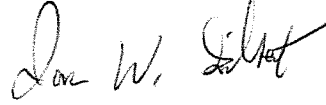
## **Current status**

The availability of intervenor funds is allowing the Town to participate in a meaningful way through the pre-application phase of the project. The law firm and engineering firm were able to review contracts, Article 10 files, and stipulations and offer comments. We are pleased to report that the purpose for which the funds were awarded (i.e., meaningful participation by the Town in the pre-application phase) have been and continue to be achieved.

Should you have any questions, please contact me or attorney Jim Burrows.

Very truly yours,

CONBOY, MCKAY, BACHMAN & KENDALL, LLP

A handwritten signature in black ink, appearing to read "Ian W. Gilbert". The signature is written in a cursive, professional style.

Ian W. Gilbert, Esq.

cc: DMM Party List (via submission),  
Kris Dimmick, P.E., BCA

Enclosure

**Conboy, McKay, Bachman & Kendall, LLP.**  
 407 Sherman Street  
 Watertown, NY 13601

**Bernier, Carr & Associates**  
 Engineers, Architects, & Land Surveyors, P.C.  
 327 Mullin Street  
 Watertown, NY 13601

Q2 Partial	May-17	Fees	\$ 962.00	May-17	Fees	\$ -
		Disbursements	\$ 11.89		Support Services	\$ -
		Advances	\$ 21.40			
	Jun-17	Fees	\$ 3,311.50	Jun-17	Fees	\$ 80.00
		Disbursements	\$ 7.39		Support Services	
		Advances	\$ 42.80			
		<b>Total Quarter 2:</b>	<b>\$ 4,356.98</b>		<b>Total Quarter 2:</b>	<b>\$ 80.00</b>
Q3	Jul-17	Fees	\$ 1,305.50	Jul-17	Fees	\$ 160.00
		Disbursements	\$ -		Support Services	\$ 75.00
		Advances	\$ 21.40			
	Aug-17	Fees	\$ 1,405.28	Aug-17	Fees	\$ -
		Disbursements	\$ 30.38		Support Services	\$ -
		Advances	\$ 21.40			
	Sep-17	Fees	\$ 3,350.00	Sep-17	Fees	\$ 400.00
		Disbursements	\$ 51.47		Support Services	\$ -
		Advances	\$ 76.90			
		<b>Total Quarter 3:</b>	<b>\$ 6,262.33</b>		<b>Total Quarter 3:</b>	<b>\$ 635.00</b>
Q4	Oct-17	Fees	\$ 654.16	Oct-17	Fees	\$ 240.00
		Disbursements	\$ 5.16		Support Services	\$ -
		Advances	\$ -			
	Nov-17	Fees	\$ 481.00			
		Disbursements	\$ 12.16			
		Advances	\$ -			
	Dec-17	Fees	\$ 1,110.00			
		Disbursements	\$ 5.30			
		Advances	\$ -			
			<b>Total Quarter 4:</b>	<b>\$ 2,267.78</b>		<b>Total Quarter 4:</b>

	<b>Total to Date:</b>	<b>\$ 12,887.09</b>		<b>Total to Date:</b>	<b>\$ 955.00</b>
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Total Prior Expenditures Incurred	\$ 13,842.09
Total Intervenor Funds Awarded	\$ 16,000.00
<b>Disbursement Request Amount</b>	<b>\$ 13, 842.09</b>