

NEW YORK STATE BOARD ON ELECTRIC
GENERATION SITING AND THE ENVIRONMENT

CASE 16-F-0062 - Application of Eight Point Wind, LLC for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 to Construct a Wind Energy Project.

RULING ON INTERVENOR FUNDING

(Issued January 10, 2019)

SEAN MULLANY, PRESIDING EXAMINER, AND LISA WILKINSON, ASSOCIATE EXAMINER:

INTRODUCTION

This ruling follows upon the ruling made at the October 18, 2018, procedural conference which granted Citizens for Maintaining Our Rural Environment (CMORE) an initial amount of \$10,000. In this ruling we award CMORE an additional \$44,942.50 in intervenor funding. The request by the Towns of Greenwood and West Union (Towns) for an additional \$10,000 of intervenor funding is denied.

BACKGROUND

A notice issued on December 5, 2017, invited eligible municipal and local parties to seek intervenor funds by submitting a request for intervenor funding (RFIF) by the close of business January 5, 2018. Three requests were timely filed. The Towns jointly requested all available funding, i.e., \$105,885.¹ The Steuben County Industrial Development Agency (IDA) requested \$30,000, and CMORE, a newly formed citizens

¹ At the request of the Presiding Examiner, the Towns' supplemented Exhibit A to their RFIF with additional information about the legal and engineering professional services that the Towns would procure for reviewing Eight Point's application.

group, requested \$52,942.50, representing one-half of the available funds.

At a procedural conference held on October 18, 2018, we jointly awarded the Towns \$54,942.50, one-half of the available application stage intervenor funds.² We reserved decision on the balance of the funds requested by the Towns, pending a final decision on CMORE's request for funding. We denied the funding request of the IDA because the IDA is not an eligible "municipality" within the meaning of Public Service Law Article 10.³ We awarded CMORE \$10,000 in intervenor funding to enable CMORE to review the application, to identify issues for adjudication, and to supplement its RFIF, and reserved decision on the balance of CMORE's funding request pending CMORE's renewal of its request with additional information.⁴

On October 31, 2018, CMORE supplemented its RFIF with additional information. On November 26, 2018, we asked CMORE a number of questions about its renewed request for funding. In response, CMORE filed a second supplement to its funding request on December 5, 2018.

On December 13, 2018, the Towns responded in opposition to CMORE's request for additional intervenor funds. The Towns asked that \$10,000 be withheld from any additional award to CMORE because the Towns likely will request an additional \$10,000. The Towns described what they had already accomplished using the application-stage funds previously awarded to them and noted that approximately \$7,000 remains

² Case 16-F-0062, Eight Point Wind, Transcript of October 18, 2018, Procedural Conference, p. 10.

³ The IDA did not appear at the procedural conference.

⁴ Case 16-F-0062, Eight Point Wind, Transcript of October 18, 2018, Procedural Conference, pp. 12-13.

available from that initial funding award.⁵ The Towns stated that, ideally, their legal and environmental consultants desired to take additional steps in this case which could include additional comments on possible certificate conditions, additional discovery, and continued communications between the Towns and their consultants regarding multiple issues of concern.⁶ Although the Towns estimate that completing this additional work would exceed the Towns' initial funding award by more than \$10,000, the Towns planned to ask for only an additional \$10,000. For these reasons, the Towns ask that at least \$10,000 be reserved for an additional award to the Towns.

DISCUSSION

Based upon our review of CMORE's supplemental filings providing more detailed information about its request for intervenor funding, we find that CMORE's participation in the application stage of this proceeding will contribute to a complete record leading to an informed decision by the Siting Board as to the appropriateness of the site and the facility and will facilitate broad participation in the proceeding. Accordingly, CMORE is awarded an additional \$44,942.50, which is the entire remaining balance of available intervenor funds.

As of this date, the Towns have not submitted a request for additional funding. Given that sufficient time has passed for the Towns to have done so, we deny the Towns' request

⁵ At the October 18, 2018, procedural conference, the Towns were jointly awarded \$52,942.50, representing one-half of the available funds, and one-half of the total amount that the Towns had requested.

⁶ In the filing, counsel for the Towns explained that they would discuss these matters with the Towns at meetings on December 13, and 20, in order to submit a supplemental request for an additional funding award, likely in the amount of \$10,000.

to hold back \$10,000 from the additional funding award to CMORE. In this regard, we note that the initial funding award to the Towns, amounting to one-half of the available funds, was equitable and consistent with the Article 10 statute and regulations.

In making funding awards, we do not endorse, pre-judge, or make any determination on the merits of any case that the Towns or CMORE might present in this proceeding.

The Towns and CMORE must each enter into a contract with the Department of Public Service in connection with these funding awards. The Towns and CMORE must timely submit quarterly funding reports, pursuant to the applicable regulations. 16 NYCRR §1000.10(b)(10). Intervenor funds may only be used to defray eligible costs incurred consistent with the Article 10 statute and implementing regulations. Disbursement of funds must be requested by fully completing a voucher in the particular form required by the Department. Each such voucher must include supporting documentation of costs which includes sufficiently detailed information to support a finding that the funds will be used to defray, in whole or part, eligible costs.

(SIGNED)

SEAN MULLANY

(SIGNED)

LISA WILKINSON