

TOWN OF CAPE VINCENT

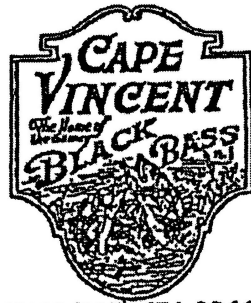
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December 12, 2012

Hon. Jaclyn A. Brillling
Secretary, New York State Public Service Commission
Three Empire State Plaza
Albany, New York 12223-1350

Re: Case 12-F - Cape Vincent Wind Power, LLC, Public Involvement Program

Dear Secretary Brillling:

We are writing you again with issues that surfaced as a result of BP's recent Article 10 instructional meeting on Thursday, December 6, 2012. Our concerns include BP's Public Involvement Program (PIP) and a potential conflict between a PSC Commissioner and BP's attorney of record.

We have reviewed both versions of BP's PIP submitted to the PSC for its review and comment. In the revised plan dated November 16, 2012 BP lists "Local Cape Vincent and Lyme Community Groups" as stakeholders (p.15-16). BP lists the goals for their interaction with these stakeholders as: "*Disseminate information, gather information to assist in the PIP process, PSS document and the Article 10 application as well as schedule follow up meetings. Identification of specific issues. Adequacy of studies completed to date and need for additional studies.*" BP outlined methods to engage stakeholders as those suggested by PSC in their review of BP's first PIP submission. The methods include phone calls, and where necessary letters. In addition, stakeholder outreach will involve face to face meetings, as well as invitations to Open House Events and Workshops.

Recently BP began approaching a number of service groups in Cape Vincent offering to make donations. At no point, however, in either the original PIP or its revision did we see any reference to offering donations to stakeholders, especially prior to the time when BP meets with these stakeholders to gather their input and comments. Aside from our first reaction that

donating funds to stakeholders is a questionable, ethical practice, if BP believes paying stakeholders is perfectly ethical then why not include the practice in their PIP plan? Why not have PSC staff comment on the approach?

We believe PSC should provide an opinion on these payments before BP continues with their solicitations in Cape Vincent and before it becomes common practice within the Article 10 process. Furthermore, we believe at worst these donations appear to be bribes and at least "facilitating payments," which typically have been used by BP operating in less-developed countries. Needless to say, we think this approach is totally inappropriate at this time and that BP should cease this activity.

Another issue that surfaced as a result of BP's meeting is the marital relationship between BP's attorney John Harris and his wife, PSC Commissioner Maureen Finnegan Harris. At the time BP originally retained Harris he was a partner with McKenna, Long and Aldridge LLP (2006-2010). In May 2010 he became a partner at Harris Beach PLLC and just recently is a partner with Brown & Wienraub PLLC. During these changes of affiliation BP seems to have shown more interest in continuing its relationship with Harris, personally, rather than the law firms he represented.

In an article in today's Watertown Daily Times (Dec. 12, 2012) PSC spokesman James Denn is quoted regarding the potential conflict of interest for PSC Commissioner Harris, "*Wind farm approvals would be the responsibility of the siting board, not the PSC. PSC has no role to play in the review of the BP project in Cape Vincent.*" Yet, in Section 163(5) of the Article 10 law it states, "*In order to attempt to resolve any questions that may arise as a result of such consultation, the department shall designate a hearing examiner who shall oversee the pre-application process and mediate any issue relating to any aspect of the preliminary scoping statement and the methodology and scope of any such studies or programs of study.*"

Clearly the hearing examiner has an important role to play in the Article 10 process by administering the hearings and making recommendations to the Siting Board. Are we wrong to assume hearing officers are members of PSC staff, in spite of Mr. Denn's comment? Please understand that we in Cape Vincent have had a long, tortuous history of local municipal officials who have had direct conflicts of interest with BP and the other wind developer Acciona Energia. As a community we are very,very sensitive to the conflict issue.

We also understand that energy company staff and their attorneys are probably frequent visitors to the PSC, NYSDEC, NYSDOH and NYSERDA. After all, you are all in the energy or regulatory business. Regrettably, small municipalities do not have the same access and exposure to the State's regulating bodies. We know as we proceed with BP's Article 10 proposal that this imbalance puts Cape Vincent at a disadvantage. Having BP's attorney of record married to a PSC Commissioner does nothing to mollify our fear of having the process tilted even further in favor of the applicant.

To help us we would appreciate some assurance that Commissioner Harris is not involved in the Article 10 process and that she would not have any influence over PSC staff who may be involved in any future proceedings in our case.

Thank you for your attention to our concerns.

Respectfully yours,

Urban Hirschey – Town Supervisor
Brooks Bradgon – Deputy Supervisor
John Byrne – Town Council
Clifford Schneider – Town Council
Richard Macsherry – Planning Board
Chairman
Robert S. Brown – Planning Board
Cyril Cullen – Planning Board
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