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C. Daniel Shulman  
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Christian J. Danaher

May 1, 2013

Honorable Jeffrey C. Cohen  
Acting Secretary, NYS Board of Electric Power  
Generation Siting and Environment  
Three Empire State Plaza  
Albany, New York 12223-1350

***Re: Case 12-F-0410 Cape Vincent Wind Power, LLC***

Dear Acting-Secretary Cohen:

Two recent issues came to the attention the Town and we would appreciate an opinion and some guidance.

Our first issue concerns intervenor funding. The Town is concerned that special interest groups, such as Voters for Wind, may request funding for expert opinions, perhaps for the purpose of denying or limiting funds that might otherwise go to parties that are perceived to be critical of BP's project. We question the legitimacy of distributing BP's intervenor funds to a group that is already affiliated and funded by BP.

For example, the following description of BP's relationship with Voters for Wind was included in BP's initial Public Involvement Plan:

*"In 2007, BP retained the services of Marion Trieste and her team of public outreach experts to assist with planning events to educate and engage the public. As part of this effort, BP assisted a group of local wind power supporters in the Towns of Cape Vincent and Lyme to form a group known as Voters for Wind. "*

As we near completion of our requests for Pre-Application phase intervenor funds, we are concerned there will be sufficient funds to engage all of the Town's experts. We bring this matter to your attention at this time so that if a funding request is submitted by an affiliate of the applicant that there will be sufficient time to examine the issue prior to the scheduled intervenor funding conference.

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Our second concern relates to a reference BP used to waive portions of the Town's zoning law as described in their Preliminary Scoping Statement (PSS) filed on April 19, "...*the Public Service Law general preemption of local laws should relieve CVWF of the obligation to comply with this section.*" DPS in its review of BP's PSS (p.46) also found the general preemption statement by BP to be baffling, "*The revised PSS should clearly identify what CVWP means when asserting that, "the Public Service Law general preemption of local laws" will relieve the applicant of its obligations to comply with a local standard.*" Because the waiver of local laws is the heart of this case, the Town requests the same clarification and identification as DPS, but the Town would prefer see a clarification sooner rather than later.

Very truly yours,

SHULMAN CURTIN  
& GRUNDNER, P.C.



Paul J. Curtin, Jr.

PJC/jmm