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Via Email to secretary@dps.ny.gov

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223

Re: Case No. 15-F-0122: Application of Baron Winds LLC, for a Certificate of Environmental Compatibility and Public Need Pursuant to Article 10 to Construct a Major Electric Generating Facility in the Towns of Avoca, Cohocton, Dansville, Fremont, Howard, and Wayland, County of Steuben, New York

Dear Secretary Burgess:

We represent Baron Winds LLC ("Baron Winds") in the above-referenced proceeding before the Siting Board on Electric Generation and the Environment ("Siting Board") under Article 10 of the NY Public Service Law ("Article 10").

Baron Winds has reviewed the recent intervenor funding request submitted by Steuben Citizens for Responsible Wind Siting, and has a number of concerns regarding the form of the request and its stated purpose at this stage in the proceeding. Overall, the funding request lacks specificity and fails to identify appropriate uses of the intervenor funding during the pre-application phase of the proceeding.

At this stage in the proceeding, intervenor funds can only be awarded by the Examiners based on a determination that the funds will be used to make an effective contribution to review of the PSS and to the development of an adequate scope of the application to be submitted by the project sponsor. Funding requests must contain all of the information required by the Siting Board's rules set forth in 16 NYCRR §1000.10(c)(1).

As an initial matter, it is unclear whether Steuben Citizens for Responsible Wind Siting meets the requirement of “local party” as defined by PSL 160 and 16 NYCRR 1000.2(s) to be entitled to intervenor funds. The request does not include a statement that any members of the organization are actually present in the “facility area” identified in the PSS or within any proposed study area.

Aside from the question of the party’s status, the request does not outline how the identified experts, consultants, or attorneys will contribute to review of the PSS and the development of an adequate scope of studies for the application. Instead, the request primarily focuses on obtaining funding to conduct post-construction noise monitoring at other wind projects near the proposed facility. It is not appropriate for this process to be used to fund studies for other projects. Even assuming the request is limited to post-construction studies for this pending proceeding, and the request is clearly not limited to this proceeding, the request does not state why an award of intervenor funds is necessary at this time during the pre-application phase of the proceeding.

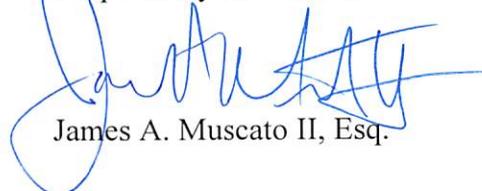
Moreover, the request fails to provide specific details regarding the experts they intend to hire, the scopes of studies those experts will perform during the pre-application phase, the need for such studies during the pre-application phase, the qualification of the experts, the services those experts will provide, and the basis and fees for those services. Notably, the request identifies an attorney who has been retained, yet there are no specifics about what services the attorney will provide or the costs of those services. The request also indicates that a wildlife biologist may be retained, but no information is given regarding this potential expert. Finally, the request suggests the party may identify an individual to offer opinions regarding sound, but provides no basis for those opinions or the qualifications of this individual or what services this individual will provide during this phase of the proceeding.

As the request currently stands, the presiding examiner cannot make an informed decision about the costs for services or the legitimacy of the request, which is for over \$50,000 in funding, as no details have been provided.

Lastly, initial intervenor funds were announced to be available early this summer, and since that time the ALJ’s have provided more than adequate time for intervenor funding requests. Specifically, the initial Notice of Availability of Pre-Application Intervenor Funds was issued on August 15, 2016 while the second Notice of Availability of Pre-Application Intervenor Funds was issued on October 12, 2016. While Baron Winds understands that in some circumstances there may be a need for additional time, the request does not indicate any reason why an extension of time is necessary to provide additional information. Particularly where counsel is involved, in order to protect the rights of all involved and ensure a fair and orderly process, all filings in this proceeding should be made in accordance with the established rules of procedure and provide the required information in a timely manner.

Please do not hesitate to call me with any questions.

Respectfully submitted,



James A. Muscato II, Esq.