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November 16, 2016

Kevin Casutto,
Examiner
Department of Public Service
Via Email: Kevin.Casutto@dps.ny.gov

Hon. Lisa Wilkinson
Administrative Law Judge
Department of Environmental Conservation
Via Email: Lisa.Wilkinson@dec.ny.gov

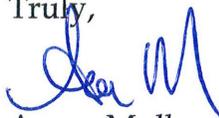
Re: Case 16-F-0062: Request for Pre Application Stage Intervenor Funding for the
Towns of Greenwood and West Union Related to the Application of Eight
Point Wind, LLC for a Certificate of Environmental Compatibility and Public
Need Pursuant to Article 10 to Construct a Wind Energy Project

Dear Examiner Casutto and Judge Wilkinson:

I am writing because our firm represents the intervenor Towns of Greenwood and West Union ("the Towns") in the above-referenced Article 10 case before the New York State Board on Electric Generation Siting and the Environment. Enclosed is the Towns' request for Intervenor Funds made in accordance with applicable procedure.

Please call or email me with any questions. If you call, my Bath office location is the best number to use: 607-776-1000.

Truly,



Aaron Mullen

CC: Towns
David Gil (David.Gil@NextEraEnergy.com)

Hon. Kathleen H. Burgess: secretary@dps.ny.gov
Robert Alessi, Esq.: Robert.alessi@dlapiper.com
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Tara Wells, Esq.: Tara.Wells@agriculture.ny.gov

Request for Intervenor Funds

Instructions: Provide all applicable information by filling in the text boxes as indicated.
If necessary, attach additional information in a separate document.

This request is to be submitted either electronically (preferred) or by regular mail.

To submit this request electronically, save your changes and attach it to an e-mail sent to:
secretary@dps.ny.gov

To submit this request by regular mail, print it and mail it to:

Secretary,
NYS Board on Electric Generation
Siting and the Environment
3 Empire State Plaza
Albany, NY 12223

Copies must also be submitted to the Presiding Examiner and other parties to the proceeding.

TO THE SECRETARY:

I hereby provide a request for intervenor funds in the following Article 10 case before the NYS Board on Electric Generation Siting and the Environment:

Case Number: 16-F-0062

Title of Case: 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

Name of Party: Town of Greenwood and Town of West Union

Contact Person: Aaron I. Mullen

Firm Name: Snavelly, Plaskov & Mullen, PLLC

Contact Address: 5 Gansevoort Street
PO Box 551
Bath, NY 14810

Contact Telephone Number: 607-776-1000

Contact E-mail Address: aaron@snavellyfirm.com

Amount of Funds Requested: \$27,142.50

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

The basis of eligibility for intervenor funds is as follows: (Check one)

- Eligible Municipal Party** [County, city, town or village located in New York State that may be affected by the proposed major electric generating facility]
- Eligible Individual Local Party** [Person residing in a community who may be individually affected by the proposed major electric generating facility]
- Eligible Group Local Party** [Persons residing in a community who may be collectively affected by the proposed major electric generating facility]

1(a) Provide a statement of the number of persons the requesting party represents:

The requesting party represents the Towns of Greenwood and West Union. Greenwood and West Union are two of the three towns inside the project boundary.

1(b) Provide a statement of the nature of the interests the requesting party represents:

The Towns are rural municipalities located in Steuben County. The towns submit this request for intervenor funds on behalf of the taxpayers and residents of the Towns, all of whom will be impacted daily by the construction, existence, and/or maintenance of the massive wind energy generation facilities that have been proposed in the Application. The Town residents and taxpayers own the land upon which the turbines (and other facilities) will be constructed; drive on the same roads that will be used to transport the Turbines and construction machinery to the construction sites; and live in the homes that will be within audio-visual range of the turbines.

2(a) Provide a statement of the efforts that have been made to obtain funds from other sources:

The Towns have not made efforts to obtain funds from other sources.

2(b) Provide a statement of the availability of funds from the resources of the requesting party:

The Towns have very little by way of available funds for the legal and other professional resources that are needed to ensure that the Towns, their residents, and taxpayers are treated equitably in these proceedings. Neither town has a legal or engineering employee, and both towns have very small budgets that would be greatly impacted by professional fees. West Union's projected total budget for 2017 (including road maintenance) is only slightly over \$600,000; slightly over \$350,000 of that is paid for by taxes raised; \$2,000 of its budget is allocated to attorney fees. Greenwood's appropriation numbers are very similar, though its 2016 tax levy was over \$500,000; its legal budget is only slightly over \$2,300.

2(c) Provide a statement of the availability of funds from the resources of sources other than the requesting party:

The Towns are not aware of funds being available from sources other than the requesting party.

3(a) Indicate the type of funds being sought: (Check one)

- Pre-Application Stage Funds** [Generally available upon the filing by the Project Applicant of a Preliminary Scoping Statement (PSS)]
- Application Stage Funds** [Generally available upon the filing by the Project Applicant of an Article 10 Application]

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

3(b) State the amount of funds being sought:

The Towns are requesting no less than 75% of the available amount of intervenor funds, or \$27,142.50. Alternatively, if the Town of Troupsburg has not applied for funds, then the Towns are requesting 100% of the intervenor funds. This request is based on the fact that the estimated cost of the Towns' participation in any meaningful capacity will require professional representation as outlined below. The Towns are not aware of any individuals at this time who will be applying for intervenor funds. The Towns believe that they should be awarded more than 2/3 of the funding because the project area effects a majority of the land located in both towns, which contrasts with the project area in the Town of Troupsburg, where a much smaller percentage of its land is effected.

4(a) If expert witnesses, consultants, attorneys, or others are to be employed, provide to the extent possible, the name and qualifications of each person to be employed:

The Towns intend to hire legal and engineering professionals to assist with the project to the extent they are able to do so in accordance with allotted intervenor funds.

Legal representation will be provided by Snavely, Plaskov & Mullen, PLLC, which is located in Steuben County. The specific attorneys who will be working on the project for the firm include Karl V. Anderson, Jr., Aaron I. Mullen, Robert H Plaskov, and Elizabeth A. Oklevitch.

Karl V. Anderson, Jr. is of-counsel with the firm, and has been a municipal attorney continuously since 1972. Since then, he has represented over a dozen municipalities. He has also represented the Town of Howard for two different wind projects that were constructed in Howard over the past decade. Aaron Mullen has represented municipal clients since 2014. He has also represented many land owners regarding wind-related issues, and has also represented landowners in other environmentally sensitive issues with DEC including issues involving wetlands, landfills, and gravel pit permitting, which permitting required a public hearing involving DEC. Robert H Plaskov is of-counsel with the firm, has represented municipalities and other public entities over the course of his career, and has been involved with many cases and public hearings throughout that time. Elizabeth Oklevitch is an associate attorney at the firm, and has assisted with legal issues for municipalities and wind issues for land owners. She has also worked alongside Attorney Mullen on the wetlands, landfill, and gravel pit issues outlined above.

With respect to the local municipal attorneys for each Town, the town of West Union is currently represented by Karl V. Anderson, Jr. As explained above, he will be coordinating with the Town on this through the Firm, where he is of Counsel. As his agreement as the Town's attorney is on an as-needed basis, any work on this project by him would be outside the scope of work he has already been paid to perform.

The local attorney for the Town of Greenwood is James Burd. He is retained annually by the Town of Greenwood, and the Firm intends to cooperate with him throughout the process.

The Towns have not yet hired an Engineering firm, but intend to, provided that funds are available, in order to assist with planning, roads, environmental issues, windmill decommissioning, agricultural issues, SEQR/DEC, DOT, and utilities. These services will be requested by the Towns on an as-needed basis.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 4(b) If expert witnesses, consultants, attorneys, or others are to be employed and it is not possible to provide the name of each person to be employed, provide for each person that cannot be named a statement of the necessary professional qualifications for the person:

With respect to the engineering firm, the Towns intend to hire engineers with a wide breadth of civil engineering knowledge. The Towns intend to request proposals from engineers, by the end of November, and the proposals will require the type of experience outlined below. The Towns need intervenor funds in order to be able to afford such professionals.

The engineers will need to be familiar with AASHTO or otherwise prove that they are knowledgeable in with guidelines related to local roads.

The engineers will also need to evince the ability to give the Towns sound advice relative to wind turbine placement, especially as related to the Towns' local laws; wind turbine decommissioning and appropriate levels of bonding related to the decommissioning; sound issues; environmental and SEQR issues raised during and post construction; risk assessments; utility issues; feasibility studies; and other issues relevant to wind project development as the Towns see fit.

- 5 Provide, if known, the name of any other interested person or entity who may, or is intending to, employ any such expert witnesses, consultants, attorneys, or others:

The Town of Troupsburg will likely also be employing an attorney or other expert, but Troupsburg has not communicated with the Towns with respect to who it may be employing.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

6(a) For all expert witnesses, consultants, attorneys, or others to be employed, provide a detailed statement of the services to be provided:

Snavelly, Plaskov & Mullen, PLLC will provide the following some or all of the services listed below as prioritized by the Towns:

1. Scoping statement and application review;
2. Comment review, especially as related to the Towns;
3. Representation at meetings, conferences, and/or hearings for the Towns throughout the process;
4. Legal advice related to local issues, especially related to impact on local infrastructure;
5. Legal advice related to project development as related to local laws;
6. Communication on behalf of the Towns with parties and others related to the project;
7. Filing comments as requested by the Towns;
8. Legal advice related to Article 10 and other relevant legal/regulatory procedure;
9. Coordination related to engineers or other experts needed by the Towns to assist with issues related to roads, the environment, and other issues raised by the Project;
10. Negotiations with the Applicant regarding agreements related to Project development or issues raised due to Project Development; and
11. Advice related to the Siting Board during the hearing, and presenting issues during the hearing itself.

The Towns have not yet hired engineers, but the Towns intend to employ engineers who are able to give the Towns and their attorneys advice related to issues raised during the Project, including the issues outlined in number 4(b) above. The Engineers should also be able to give Expert testimony related to those issues.

6(b) For all expert witnesses, consultants, attorneys, or others to be employed, provide a detailed basis for the fees requested, including hourly fee, wage rate, and expenses:

For the legal services provided by Snavelly, Plaskov & Mullen, PLLC, the rates will be as follows:

Karl V. Anderson, Jr.: \$225 per hour;
Aaron I. Mullen: \$225 per hour;
Robert H Plaskov \$225 per hour, and
Elizabeth A. Oklevitch: \$150 per hour.

The expenses that will be reimbursed include travel expenses, copy expenses, postage, and other services necessary to the Firm's representation of the Towns.

It is estimated at this juncture that Attorney Anderson will provide 5 hours of advice at \$225 per hour (\$1,125); Attorney Mullen will provide 30 hours of advice at \$225 per hour (\$6,750); and Attorney Oklevitch will provide 30 hours of advice at \$150 per hour (\$4,500). Attorney Plaskov will likely not provide advice at this stage of the proceedings, but will be aware of the project, and fill in as needed. The total legal fees through this preliminary stage are estimated to be \$12,375, but it is very difficult to provide an accurate estimate as the Firm has never been through the procedure before.

It is not yet known what the rates for the Engineers will be, but it is estimated that their services will range between \$125 and \$250 per hour. The Towns are now in the process of preparing RFPs for such services. It is likely that the Engineers will be paid for approximately 100 hours of work; however, it is, again, difficult to estimate.

All requests for disbursements from the intervenor fund will be supported with a detailed explanation of each request, including the work performed, the names of the professionals from Snavelly, Plaskov & Mullen, PLLC and the engineering firm performing the work, and the costs, rates, and expenses associated with such performance.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 6(c) For all expert witnesses, consultants, attorneys, or others to be employed during the Pre-Application Stage, provide a detailed statement specifying how such services and expenses will make an effective contribution to review of the Preliminary Scoping Statement and the development of an adequate scope of appropriate studies for the application to be submitted and thereby provide early and effective public involvement:

Snavelly, Plaskov & Mullen, PLLC:

The firm was hired very recently by the Towns, which have not yet extensively analyzed the applicable regulations in and related to Article 10. The Firm intends to Analyze Article 10 and to assist the Towns in analyzing issues raised in the PSS, review comments applicable to the Towns and the Project in the PSS, and submit comments related to the PSS. The Firm will add value to the process by streamlining the Towns procedures while dealing with the Project, and helping the Towns to foresee and focus on issues relevant to the communities and the project's impacts on the communities.

The Article 10 procedure is new, and for most entities who are a part of the Project, it is their first time through the Process. Accordingly, attorneys are needed to navigate the process and to ensure that the proper steps are taken throughout the proceeding. The work performed by the Firm will be more complicated than the work it would perform if it were only representing one town (because there are multiple sets of laws it will need to analyze), but there will also be efficiencies created due to the fact that many learning-curve related redundancies will be reduced because one Firm is representing multiple towns.

The Firm will also serve a necessary guide and liaison between the Towns, the Engineering firm to be hired, and other entities involved.

Engineers:

The Engineering firm that is hired will serve the Towns by reviewing the PSS to help the Firm and the Towns ask additional questions related to development and infrastructure that the Towns and the Firm of themselves would not know to ask or analyze. The Engineers will also help the Firm and the Towns understand the nature and impact of all of the aspects of the project that are outlined in the PSS, and will help the Firm and the Towns address issues raised in comments, as well as to submit proper comments of its own.

The Engineering firm should also be able to provide alternative scenarios to the Applicant that the Applicant may not have considered that would be beneficial to the Towns. The Engineering firm should also help to foresee problem areas that could arise due to the Project in order to help the Towns to plan around those areas.

The Engineering firm should also be able to work in conjunction with the Firm to compare the PSS to relevant local laws to ensure necessary compliance in ways that the Firm and Towns alone would not be able to.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 6(d) For all expert witnesses, consultants, attorneys, or others to be employed during the Application Stage, provide a detailed statement specifying how such services and expenses will contribute to the compilation of a complete record as to the appropriateness of the site and facility and will facilitate broad participation in the proceeding.

This request is for the pre-application stage only, but many similar types of services will likely be performed during the Application Stage.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

7(a) For any study to be performed, a description of the purpose of the study:

The Towns have not yet planned any studies, but may do so if the Engineers deem a study to be appropriate at a later time.

7(b) For any study to be performed, a description of the methodology and a statement of the rationale supporting the methodology:

N/A: See 7(a).

7(c) For any study to be performed pursuant to any proposed methodology that is new or original, explaining why pre-existing methodologies are insufficient or inappropriate:

N/A: See 7(a).

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

- 7(d) For any study to be performed, provide a description of the timing for completion of the study and a statement of the rationale supporting the timing proposed:

N/A: See 7(a).

- 8(a) For any study to be performed, a statement as to the result of any effort made to encourage the applicant to perform the proposed studies or evaluations and the reason it is believed that an independent study is necessary:

N/A: See 7(a).

- 9 For all expert witnesses, consultants, attorneys, or others to be employed, provide a copy of any contract or agreement or proposed contract or agreement with each such expert witness, consultant, attorney, or other person.

IF NECESSARY, ATTACH ADDITIONAL INFORMATION IN A SEPARATE DOCUMENT.

10 Provide a statement of any additional justification for the funding request not already addressed above:

The Towns are very small Towns with very limited resources to address issues that will effect most or all of their land or access to land; their citizens; and many other people throughout the state who pass through the Towns, both of which are located on State Route 248. Receiving Intervenor Funds will allow the Towns to be represented in a capacity that levels the playing field between the Towns and the Applicant.

I was not able to write in the space provided in the pdf in number 9 above, but the letters of engagement that the Firm has sent to the Towns is provided in attachments to the same email that this pdf is provided in.