

Cayuga Operating Company LLC

Proposed PILOT Agreement Public Hearing

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Brian Eden

147 N. Sunset Dr., Ithaca

“Democracy like a precious jewel, shines most brightly in the light of open government” (Conducting Public Meetings and Public Hearings, NYS Department of State, 2008).

The public hearing is a formal proceeding. When the Tompkins County Legislature holds a public hearing, it generally is scheduled for just prior to its regular meeting. Most Legislators are present. My experience with TCIDA public hearings is that Board members are often not present. This public hearing was scheduled when 2 Board members had a standing committee meeting that was in conflict with the time. Although 5 of the 7 Board members are public officials, TCIDA while dispensing such public benefits as tax exemptions, is a public authority less regulated than a governing body. There are no procedural rules requiring attendance, a quorum, or Board members to read the transcript of a hearing prior to voting on a project. Many find in-person presentations a more preferable form of communication than a written transcript. Since the intent of a public hearing is to provide the decision-maker with a better understanding of an issue and allow a community's residents to participate in its own governance, the current practices of this agency are disrespectful and not beneficial to the public interest.

With regard to the proposed PILOT agreement, I'd like to place it in the context of the overarching Reliability Support Services Agreement. The RSSA is a regressive billing assessment in light of who

pays the most and benefits the least. Each NYSEG customer is assessed a charge based upon their consumption. We note that low-income residents have the least energy efficient homes and appliances. Cayuga's investors are permitted to retain \$5M plus 50% of the additional net energy sales as profits annually. Thus, this program is another exacerbates income inequality.

From the \$45.6M annual RSS charges the Lansing School District will receive \$1.27M. I'm sure that NYSEG customers who live in less wealthy school districts such as Newfield, Candor, and Southern Cayuga are not inspired by being required to subsidize Lansing schools with no commensurate benefit to themselves.

Presumably if the power plant had been mothballed in 2012 as it had requested, the investors would be earning less than that guaranteed by the NYS Public Service Commission Order. Instead of returning any surplus earnings to the ratepayers to reduce their costs, the investors are rewarded. And who are these investors? JP Morgan, Goldman Sachs, Merrill Lynch, Carlyle, and others.

The PILOT carries forward the principle of exempting \$14M in profits before recalculating the plant's valuation. After establishing a base value, all profits should be calculated to add to the assessed valuation.

This whole PILOT process focuses solely on the revenues that can be generated for the taxing jurisdictions by the facility. Considering the nature of the facility, a large aging industrial power plant and associated landfill with 40 years of coal combustion residuals adjacent to Cayuga Lake and a neighborhood of waterfront cottages, the County may experience substantial costs addressing brownfield issues. The Emerson plant in Ithaca, while located on very attractive development property, has presented many challenges to local municipalities over

the past 15 years. Despite being located on waterfront property, there is no reason to believe that site remediation would occur more quickly at this location.

The TCIDA web site states that relevant policies are listed below. I could not locate the Uniform Tax Exemption Policy. General Municipal Law Sec. 874(4)(a) lists criteria for evaluating the exemption including "the effect of a proposed project upon the environment". I see no reference to that provision in the notice or power point presentation.

Now for the "smoke and mirrors" portion of evaluating this proposal. The facility was leased to the IDA by a Lease Agreement dated February 27, 2009 and leased back to the Company by Leaseback Agreement dated February 27, 2009. As a result of the IDA's briefly taking a leasehold interest in the facility, the facility is exempt from general real property taxation. Taking a leasehold interest provides the County with benefits. What about costs; responsibilities for environmental liabilities at the site? AES Eastern Energy LLC was discharged in bankruptcy without objection by the NYSDEC. As this outdated facility becomes an unproductive asset, all the principal responsible parties will be headed for the exit. Possibly the County may avoid direct costs associated with these issues but there may be some unforeseen indirect costs lurking. Therefore, some portion of the revenue generated from this PILOT should be set aside for protecting local taxpayers' interests.

I support a renegotiation of the PILOT Agreement to better address matters in the public interest. With reference to the Uniform Tax Exemption Policy, a proposed project must have "demonstrated public support". Considering the several important elements that appear not to have been the subject of negotiation, I believe that further discussion among the parties is warranted.