

AES/Cayuga PILOT Agreement Fact Sheet

History

Historically, the process of establishing a value of the AES/Cayuga power plant was difficult and contentious. This process often led to costly litigation—a situation common to power generating facilities in the US, not just Tompkins County. The unpredictable fluctuating valuations made it difficult for AES as well as Lansing Central School District (LCSD), the Town of Lansing, and the County to create their budgets.

The goal of all the parties was to break that expensive and time consuming litigious cycle through a PILOT that recognized the value of the Plant would change over time as conditions changed, but allowed the impact of those changes to be phased-in over a reasonable period of years (up to five years). This allows AES and local taxing authorities to plan.

AES/Cayuga PILOT Negotiating Team

Tompkins County

Jay Franklin— Assessor, Tompkins County
Dooley Kiefer—Vice Chair, Tompkins County Legislator
Joe Mareane—Tompkins County Administrator
Pat Pryor—Lansing Rep, Tompkins County Legislature
Martha Robertson—Chair, Tompkins County Legislature

Tompkins County Industrial Development Agency

Michael Stamm—Administrative Director
Mariette Geldenhuis—Attorney
Martha Robertson – Chair

Town of Lansing

Kathy Miller—Town of Lansing Board member

Lansing Central School District

Michael Cole—Consultant, Lansing
Stephen Grimm—Superintendent
Mary June King—Business Administrator

AES/Cayuga

Jerry Goodenough—Plant Manager
Chris Wentlent—Director of Regulatory Affairs

Frequently Asked Questions

What is a Payment In Lieu Of Taxes (PILOT) agreement?

A PILOT is a formal agreement between an IDA and a business that impacts the amount of property taxes the business will pay to local taxing jurisdictions over a specific period of time. Most often, a PILOT will stipulate that a specific percentage of a tax bill must be paid. The percentage paid usually is lower during the first part of the agreement and gradual becomes higher over time until 100% of the taxes are due and the PILOT expires. In some cases, the PILOT, instead of impacting the percentage of the tax bill paid, will determine the assessed value of a specific property.

What is the Tompkins County Industrial Development Agency (TCIDA)?

The TCIDA is a public benefit corporation created by the Tompkins County Legislature. The IDA has the authority to deliver local property, sales and mortgage recoding tax abatement and issue tax-exempt bonds. The IDA must comply with federal and State laws as well as its own policies and procedures. The Board of Directors of the IDA is appointed by the County Legislature.

What is the TCIDA's role in the PILOT negotiations?

The TCIDA is the entity that can deliver the PILOT to AES/Cayuga. It must approve the PILOT before it takes effect. During the negotiations, representatives of the administrators of the IDA from TCAD as well as the IDA's attorney ensure that the PILOT and the process to approve the PILOT comply with all local, State and federal laws.

How is the AES PILOT different from the typical IDA project?

Most TCIDA PILOTs are delivered to companies to encourage the retention or creation of employment opportunities for local residents. And most IDA PILOTs impact new taxes that result from an investment in real estate. The standard IDA PILOT starts at 90% abatement and declines in equal increments over a seven-year period. The goal of AES/Cayuga PILOT is to stabilize the assessed value of the company's property, not to create jobs.

What are the roles of the County, the Lansing Central School District, the Town of Lansing, and the TCIDA in this PILOT?

Tompkins County, specifically the Assessment Department, is responsible for accurately assessing all properties in the county for tax purposes. In order to be as transparent as possible with the affected taxing jurisdictions, representatives of the county legislature, the school district, and the town have been part of the negotiations with AES, beginning with developing the PILOT process itself and continuing with negotiations on revisions to the value of the plant. The TCIDA is the vehicle for implementing the PILOT; in other words, the legal structure for this process exists within the authority of the TCIDA and so it is the entity that governs the legal process.

The final value of the plant that will be the basis for taxes paid is the result of negotiations between these entities and AES.

How are power plants assessed?

As with any type of property, the central question that needs to be answered is, what is the most probable price a willing buyer is going to pay to purchase the property from a willing seller, each acting without undue influence? The three approaches to value are applied (Income, Cost and Sales Comparison) to the subject property. The end results are then reconciled and the appraiser states an opinion of market value.

How is this different from assessment of other types of properties assessed?

There is no major differences as to how a Power Plant is valued, compared to other properties. All three approaches to value are utilized when valuing any property. However, with a single-family residence more weight is applied to the sales comparison approach, as there are frequent sales of similar properties to use for comparison. With a power plant, there are normally very few, if any, sales transactions involving these types of property. The Cost Approach is not normally used as these plants usually have a significant amount of depreciation that is not easily quantified.

Therefore, typically more weight is applied to the Income Approach than the other two approaches to value.

What are the major factors impacting the assessed value of AES/Cayuga?

There are three major factors impacting the value of AES Cayuga:

- Revenue it can generate
- Expenses it must pay
- Return on investment

AES is a major international corporation. Why isn't it responsible for paying the taxes for AES Cayuga?

Who pays, and how the value is set are two different questions. The value of the property is based on the local entity value, not how much the entire corporation is worth in property value. The property tax value for AES Cayuga is based on the local business value.

How does the PILOT agreement respond to the changes in the factors impacting the AES/Cayuga assessment?

The agreement reached in 2008 (and signed in early 2009) is for a 20-year time frame, but it provides for specific times that the value will be reviewed and negotiations reopened, during that 20 years. In addition, either party can call for a reopener at other times under "extraordinary circumstances".

The agreement recognizes that factors such as the price of coal, costs for transportation, the price paid for electricity, and the amount of electricity sold, all go into the calculation of the net income of the plant. The calculation of the negotiated value uses three years of historic data and one year of projected data for these and other factors. There is also recognition of future risk, based on uncertainty in the market factors and future changes in environmental regulations that could affect the plant's bottom line.

Why did the county and AES decide to negotiate this PILOT?

The County and AES had had a period of several years in which the assessment was challenged in court. Both parties felt that this was a costly, time-consuming process that exposed both sides to risk, based on the uncertainty of the court's decisions. It was felt that negotiating an agreement, based on detailed information and thoughtful analysis, would yield more predictability and stability, a benefit to both the plant and the taxpayers. In addition, a number of other counties had recently negotiated similar PILOTs with the encouragement of NYS Office of Real Property Services.

What would happen if the parties couldn't reach agreement on the plant's assessed value, through the terms of the PILOT?

Either party has the legal right to seek mediation, through a process detailed in the PILOT agreement. If either party cannot accept the decision that results from this mediation, either has the right to challenge the taxable value in Tompkins County Supreme Court.

How much of the Lansing Central School District's budget is funded by taxes paid by AES/Cayuga?

In the 2009-2010 year, with an assessed value of \$160,000,000 and a tax rate of \$17.60, AES paid \$2,816,000 in taxes. The total budget was \$23,944,315, so AES paid around 11.8% of the District's total budget.

In the 2010-2011 year, with an assessed value of \$130,000,000 and a tax rate of \$18.48, AES paid \$2,417,984. The budget is \$24,377,906, so AES paid around 9.85% of the total budget.

In addition, AES paid \$951,563.15 in county taxes and \$271,880.28 in town taxes in 2010, and \$841,990.37 in county taxes and \$211,137.81 in town taxes in 2011.

Why is some of the information regarding AES/Cayuga confidential?

AES Cayuga is a merchant generator, bidding into the market (New York Independent System Operator) every day and competing with other merchant generators. There is certain business information that if made public, competitors could utilize to the detriment of AES Cayuga in the marketplace. This could further erode the plant's assessed value to the detriment of all local stakeholders.

Who represents the taxpayers during the discussions of the PILOT?

Members of the Tompkins County Legislature, the Lansing Central School District, and the Town of Lansing. In the current round of discussions, those individuals are Dooley Kiefer, Pat Pryor, and Martha Robertson for the county, Stephen Grimm, Mary June King, and Mike Coles for the school, and Kathy Miller for the town. Martha Robertson also serves as chair of the TCIDA.