

Samantha Gray

Subject: RE: Electric Aggregation Program - Proposed Regulatory Price Increase - Time Sensitive

From: Richard T. Holland <RHolland@k-plaw.com>

Sent: Thursday, October 22, 2020 4:07 PM

To: John Giorgio <JGiorgio@k-plaw.com>; Eric Heideman <ehideman@westfordma.gov>

Cc: Jodi Ross <jross@westfordma.gov>; Mary Ann Nastasia <MNastasia@k-plaw.com>

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Eric,

I spoke with legal counsel for Good Energy, which is the Town's consultant charged with, among other things, reviewing the matter which is the subject of the October 15, 2020 memorandum from Good Energy (via its legal counsel). I also reviewed the addendum issued by Good Energy to all bidders before bids were received, which advised bidders to INCLUDE costs for the Clean Peak Energy Standard, but to EXCLUDE costs for the separate CES-E Standard. Based on this information, it appears that bidders excluded all costs for the CES-E Standard per the aforesaid addendum. As the Town's consultant, Good Energy, together with its sub-consultant SEA, has determined that the finalizing of the CES-E regulatory standard constitutes a Regulatory Event under the Town's supply contract, and have verified the accuracy of the price adjustment calculated by the electricity supplier. This is, in my opinion, primarily a technical determination for which the Town may rely upon its consultant, Good Energy. The contract states that once such an event occurs, a price adjustment is permitted.

Therefore, it is my opinion that a decision by the Town to rely upon the advice of Good Energy—i.e., that a Regulatory Event has occurred for which the electricity supplier may increase its price as proposed by the supplier—would be reasonable; and I have no information to conclude that the Town has a basis to object to the requested adjustment.

Please let me know if you wish to discuss this further.

Richard T. Holland, Esq.

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