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26TH DISTRICT, NEW YORK

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May 1, 2017

Mr. Thomas Dee
President
Erie Canal Harbor Development Corporation
95 Perry St.
Buffalo, NY 14203

RE: FOIA/FOIL request re ECHDC expenditure of NYPA funds.

Dear Mr. Dee:

I am concerned to have read in the *Buffalo News* that \$2.67 million has been spent to date defending the Erie Canal Harbor Development Corporation (ECHDC) from a set of lawsuits relating to a construction dispute. Aside from the fact that such expenditures serve to sap vital financial resources, I am concerned that this represents yet a further distraction from ECHDC's mission of building out Canalside per the plans that the corporation itself developed within its master plan. Given this concern, and given the fact that we are approaching the half-way mark of the twenty-year life cycle of the accelerated and enhanced NYPA funding stream I helped negotiate with then-Governor David Paterson, I write today to request information to assess the status of ECHDC's progress to date.

The New York Power Authority's (NYPA's) obligations to the communities of Western New York resulting from the relicensing of the Niagara Power Project are enumerated in three specific filings with the Federal Energy Regulatory Commission (FERC). The portion which funds waterfront development in Buffalo is spelled out in a filing dated June 30, 2016[1]. This filing mandates the establishment of the Waterfront Development Fund, into which NYPA was to have deposited \$4 million up-front and not less than \$2.5 million annually for fifty years subsequently (and more if energy prices were relatively high)[2]. These funds were to be made available to ECHDC for the redevelopment of Buffalo's waterfront.

On December 15, 2009, the boards of both NYPA and ECHDC approved an agreement which had the effect of accelerating these annual payments into \$4.7 million per year but shortening the term over which the remaining payments would be paid to the subsequent twenty years, and providing additional funding, an "Industrial Incentive Award" of an additional \$3.7 million per year for twenty years.

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I write today to respectfully request the following:

- If any NYPA funds have been used to pay legal costs for the above-referenced matter or any other matter for ECHDC, Empire State Development, or any related organization, I request the dates and amounts of the payments, the names of the payees and the specific purposes of each payment;
- A full accounting of all of the payments NYPA has made to ECHDC or its related organizations to date as a result of either its obligations under the above-referenced license settlement agreement or the subsequent above-referenced Industrial Incentive Award (including dates and amounts);
- A full accounting of all of the expenditures which have been made by ECHDC or its related organizations using funds derived from either the above-referenced FERC-sanctioned relicensing settlement and/or through the above referenced Industrial Incentive Award to date, whether expended as a result of a contract or not (including payees, dates and the purposes of the expenditures; in the case of contracts, including contract amounts, contract dates, vendor names, amount expended under contract, amount remaining to be expended under contract); and
- In many instances, it is my understanding that ECHDC has used pass-through arrangements with its contractors and sub-contractors to purchase goods and materials. To the extent that ECHDC has records of purchases and other expenditures made by its contractors and subcontractors using funds ultimately sourced from NYPA, I request an accounting of these expenditures and purchases (including payees, dates and the purposes of the expenditures; in the case of contracts, including contract amounts, contract dates, vendor names, amount expended under contract, amount remaining to be expended under contract).

FOIA/FOIL Language: I make this request pursuant to state and federal and FOIA and FOIL laws. Our preferred method of transmission is via email to chris.fahey@mail.house.gov, but we are prepared to receive the information via any reasonable method. We are also prepared to pay any reasonable reproduction fees you may charge, though we request that you waive them.

Thank you very much.

Sincerely,



Brian Higgins
Member of Congress

[1] Niagara Power Project, FERC Project No. P-2216; Filing of Supplement to Offer of Settlement and Explanatory Statement, elibrary.ferc.gov

[2] Ibid pp. 13, 14.