



Public Service Commission

Richard E. Hitt, General Counsel

201 Brooks Street, P.O. Box 812
Charleston, West Virginia 25323

Phone: (304) 340-0317
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May 2, 2008

William V. DePaulo, Esq.
179 Summers Street, Suite 232
Charleston, WV 25301-2163

RE: FOIA Request by Sierra Club, Inc.

Dear Mr. DePaulo:

It was previously agreed that the Commission would provide responses on May 2, 2008, to the Sierra Club's request for records under the Freedom of Information Act. The request was for all records in the possession of the Public Service Commission pertaining to the Joint Stipulation of Agreement and Settlement filed in Case No. 07-0508-E-CN on April 15, 2008.

Since the settlement has been filed with the Commission, we have decided to respond to your client's request for Staff's documents leading up to the settlement without imposing a claim of exemptions based on attorney work product or attorney-client privilege. We have provided your client with every known Staff document in our possession that is subject to your request. However, the Commission will provide no documents that relate to its deliberations concerning the settlement. Since the Sierra Club is a party to Case No. 07-0508-E-CN and you are the attorney of record, I am sure that you are aware that the Commission has issued a procedural order directing a hearing concerning the stipulation on May 30, 2008. In addition, the procedural order requires the settling parties, including Staff, to file initial comments regarding the settlement and to sponsor witnesses at the hearing. Consequently, the parties will be forming litigation positions regarding the settlement. In the event you seek to use this information in the pending case, by providing this information to you, the Commission is not predetermining admissibility.

I am aware of your e-mail to Caryn Short where you propose that your FOIA request be treated as ongoing. The Commission disagrees with your proposal. Although we have provided all Staff documents to you relating to the filed stipulation, it should be understood the Commission reserves the right to invoke any appropriate claims of exemption as to any future requests. Furthermore, since this matter is pending before the Commission, the

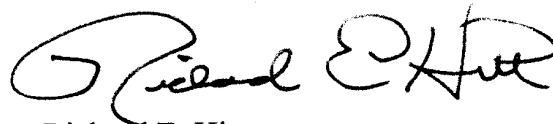
William V. DePaulo, Esq.
May 2, 2008
Page 2

Commissioners have not seen or reviewed the Staff documents that are provided in this response.

Included with the responses is a Vaughn Index, in a format that satisfies both your request and Vaughn, together with an affidavit as required by the State Supreme Court's decision in Daily Gazette Company v. West Virginia Development Office, 482 S.E. 2d 180 (W.Va. 1996).

Finally, an invoice in the amount of \$332.10 is included.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard E. Hitt". The signature is fluid and cursive, with the first name "Richard" being more prominent and the last name "Hitt" following in a similar style.

Richard E. Hitt
General Counsel

REH/jb
Enclosure

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