

Blount, Will

From: Barry, Kyle [Kyle.Barry@huschblackwell.com]
Sent: Saturday, August 30, 2014 4:19 PM
To: PPB
Subject: IPA Communications report (8.1.14 teleconference)
Attachments: IPA Communication report (8.1.14).pdf

Attached please find a communications report for a teleconference with the IPA and representatives of Sargas, Inc. which took place on Aug. 1, 2014.

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REPORT OF COMMUNICATIONS WITH THE ILLINOIS POWER AGENCY

This form must be completed and submitted to the Illinois Procurement Policy Board within 30 days for each communication report required by 30 ILCS 500/50-39. Submit reports to:

PROCUREMENT POLICY BOARD
511 W. CAPITOL AVENUE, SUITE 102
SPRINGFIELD, IL 62704

Or you may send a signed, scanned copy via email with "IPA Communication Report" in the Subject line to: ppb@illinois.gov

Date of Communication: August 1, 2014 Time of Communication: 2:00 p.m.

Type of Communication:

- Telephone
 In Person
 Electronic (Email, Fax, Etc.) – Attach A Complete Copy of the Entire Communication String
 Written – Attach Copy
 Other

Initiator:

Initiator of Communication: Paul Gandola
Representing: President
Sargas, Inc.
Location: Illinois Power Agency
Michael Bilandic Building
160 North LaSalle Street
Chicago, IL 60601

Email Address (if communication was via email)

Telephone Number (if telephonic):

Duration of Call or In-Person Communication: 20 minutes

Is this person a Lobbyist required to register under the Lobbyist Registration Act

Yes No

Recipient(s): (If there are additional persons involved in the communication, attach an additional sheet that lists the other participants' names, job titles, which entity they represent, email address and/or telephone number, if applicable)

Recipient One Name: Please see attached Addendum.

Recipient Title:

Representing:

Location:

Email Address (if communication was via email)

Telephone Number (if telephonic):

Recipient Two Name:

Recipient Title:

Representing:

Location:

Email Address (if communication was via email)

Telephone Number (if telephonic):

Recipient Three Name:

Recipient Title:

Representing:

Location:

Email Address (if communication was via email)

Telephone Number (if telephonic):



If any of these additional participants are lobbyists required to register under the Lobbyist Registration Act, they must submit a written report to be submitted with this communications report to the Procurement Policy Board that memorializes the communication that includes, but is not limited to (i) the date and time of each communication; (ii) the identity of each person from whom the written or oral communication was received, the individual or entity represented by that person, and any action the person requested or recommended; (iii) the identity and job title of the person to whom each communication was made; (iv) if a response is made, the identity and job title of the person making each response; (v) a detailed summary of the points made by each person involved in the communication; (vi) the duration of the communication; (vii) the location or locations of all persons involved in the communication and, if the communication occurred by telephone, the telephone numbers for the callers and recipients of the communication; and (viii) any other pertinent information.

Communication Details:

IPA COMM FORM V1 120216

Provide a detailed summary of the points made by each person involved in the communication:
Please see attached Addendum.

Was a response made? If so, complete the following for each person making the response *(attach an additional sheet that lists the other respondents' names, job titles, which entity they represent, email address and/or telephone number, if applicable)*:

Respondent Name:

Respondent Title:

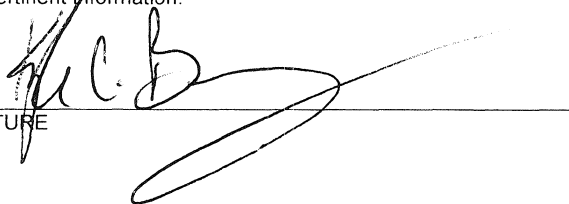
Location:

Telephone Number (if telephonic):

Provide a detailed summary of the response:

Other pertinent information:

SIGNATURE

A handwritten signature in black ink, appearing to be "K.C.B.", written over a horizontal line.

DATE

8/30/14

**Addendum to Communications Report with Illinois Power Agency for June
August 1, 2014 Teleconference**

On August 1, 2014, Anthony Star, Executive Director, and Brian Granahan, Chief Counsel for the Illinois Power Agency, participated in a teleconference with representatives of Sargas, Inc.

Participants in Teleconference:

Name	Employer	Party represented
Anthony Star	Exec. Director, Illinois Power Agency	Illinois Power Agency
Brian Granahan	Chief Counsel, Illinois Power Agency	Illinois Power Agency
Paul Gandola	President, Sargas, Inc.	Sargas, Inc.
Mike Mudd	Consultant	
Thomas Johns	Summit Power	Sargas, Inc.
Kyle Barry	Husch Blackwell LLP	Sargas, Inc.
Preston Owen	Attorney at Law	Sargas, Inc.
Dennis Williams	SNC Lavalin	SNC Lavalin

Summary of Substantive Content of Communication:

The participants discussed the following substantive content during the meeting:

- Mr. Gandola asked Mr. Star whether the IPA would be including a clean coal component in the draft 2015 IPA Power Procurement plan. Mr. Star advised that he would not reveal the contents of the plan in advance of issuing the draft plan on August 15, 2014. He indicated that he believed that the appellate court decision relating to the ICC’s approval of the FutureGen power purchase agreement clarified things to a certain extent. Mr. Star asked Mr. Gandola how Sargas viewed the appellate court decision. Mr. Gandola responded that Sargas viewed it positively.
- Mr. Granahan distinguished between the Sargas project and the FutureGen project, stating that the FutureGen project is a retrofitted and repowered clean coal project that qualifies under Section 1-75(d)(5) of the IPA Act, but that the Sargas project does not. Mr. Granahan asked how the IPA could apply the Sargas project to the ARES. Mr. Gandola indicated that the Sargas Project will qualify as a clean coal facility and that the Clean Coal Portfolio Standard (“CCPS”) applies to the project. Mr. Granahan stated that, unlike the retrofit provision, the CCPS appears to lack a specific reference to ARES and a mechanism to apply clean coal to ARES. Mr. Gandola stated that the CCPS requires the purchase of electricity from clean coal facilities that are cost-effective and meet cost-based benchmarks. Mr. Star stated that benchmarks typically used by the IPA, which are used primarily for competitive procurements, are different from the benchmark used for the FutureGen project.
- Mr. Barry stated that the appellate court decision upholding the power

purchase agreement for the FutureGen project was more broadly significant in that it was the first time a court has acknowledged the CCPS and the requirement to source 25% of the electricity generated in Illinois by 2025. Mr. Granahan said that the IPA sees barriers for a project like the Sargas project and stated that it might be helpful if Sargas provided a legal analysis that explains how the IPA can conduct a competitive clean coal procurement that yields a competitively neutral result.

- Mr. Star indicated that if the IPA proposes a clean coal procurement in the 2015 draft procurement plan, it would be along competitive lines, but the IPA would need to propose something within the existing rule framework. He explained this is why he had previously recommended to Sargas that Sargas consider developing a legislative strategy.
- Mr. Gandola inquired about the procedures used in the development to the IPA procurement plan, and asked whether it would make a difference if the IPA elected to not include a clean coal procurement in the draft 2015 plan, and Sargas waited until after August 15th to submit comments. Mr. Star stated that Sargas would be permitted to submit comments after August 15th on the draft 2015 plan that will be posted on a website. Mr. Granahan indicated that arguments against the plan will be raised in front of the Illinois Commerce Commission once the IPA files its final version of the 2015 procurement plan.
- Mr. Star stated that parts of Section 1-75 of the IPA Act are open to interpretation. He stated that if the ARES cannot be included as counterparties to a power purchase agreement resulting from a clean coal procurement, then the cost cap for such a project would be small. Mr. Gandola stated that the Sargas project will meet the cost caps. Mr. Star responded by stating that Mr. Gandola's statement assumes the ARES will be included as parties to a power purchase agreement for purposes of calculating the cost cap. Mr. Granahan stated that the size of the proposed Sargas project is potentially attractive in that it would appear to fall under the cost cap.
- Mr. Gandola thanked the IPA and advised that Sargas would likely be providing the IPA with information or comments to explain how the IPA has the statutory authority to include a clean coal procurement in its 2015 procurement plan.