



**COMMONWEALTH of VIRGINIA**

Office of the Attorney General

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December 8, 2009

BY HAND DELIVERY

Mr. Joel H. Peck  
Clerk of the Commission  
State Corporation Commission  
c/o Document Control Center  
The Tyler Building  
1300 E. Main Street  
Richmond, Virginia 23219

CLERK'S OFFICE  
2009 DEC - 8 P 2:55  
DOCUMENT CONTROL

Re: Commonwealth of Virginia, ex rel  
Department of Historic Resources v. Highland New Wind Development, LLC  
Case No. PUE-2009-00092

Dear Mr. Peck:

Please find enclosed for filing an original and 15 copies of the Complainant's Motion for Hearing in the above styled matter.

Should you have any questions, please do not hesitate to call me. Thank you for your assistance.

Very truly yours,

Steven O. Owens

Enclosures

- cc: Mark D. Obenshain, Esquire
- Kathleen S. Kilpatrick, Director, DHR
- William H. Chambliss, General Counsel  
Commissioner's Office of General Counsel  
State Corporation Commission
- William F. Stephens, Director  
Division of Energy Regulation  
State Corporation Commission
- Mr. Henry T. McBride, Manager  
Highland New Wind Development, LLC

**COMMONWEALTH OF VIRGINIA**  
**BEFORE THE**  
**STATE CORPORATION COMMISSION**

**COMMONWEALTH OF VIRGINIA, *ex rel***  
**DEPARTMENT OF HISTORIC RESOURCES**

**Complainant**

v.

**CASE NO PUE-2009-00092**

**HIGHLAND NEW WIND DEVELOPMENT, LLC**

**Defendant**

**MOTION FOR HEARING**

Complainant Department of Historic Resources (“DHR”) respectfully requests a Hearing of this matter on December 22, 2009, at 10:00 a.m., and, in support of this Motion asserts as follows:

1. The State Corporation Commission (“SCC”) issued a Final Order on December 20, 2007, approving the Defendant’s wind turbine project in Highland County subject to certain terms and conditions spelled out in the Order. Among those requirements was the obligation to “Coordinate with DHR for guidance regarding the potential need for archaeological and architectural surveys, recommended studies and field surveys to evaluate the project’s impacts to historic resources...”
2. In the letter that serves as the basis of this action, the Director of DHR stated that, “It is our reading of the December 20, 2007 Final Order that HNWD has

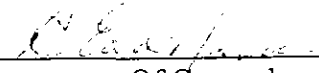
been directed to enter into constructive consultation with DHR concerning the necessary studies to identify historic resources and the evaluation of the project's effects...this project will likely have a negative impact on the pristine historic setting of Camp Allegheny...HNWD has not demonstrated a willingness to consider and minimize the impacts of the project on this significant battlefield.”

3. The parties have engaged in dialogue and have discussed many avenues of mitigation and minimization of the impacts of the Defendant's proposed development on the nearby historic Camp Allegheny Battlefield site.
4. The parties have concluded that further dialogue and discussion will not be fruitful, and that they have reached an impasse that requires a Hearing on the merits.

Consequently, DHR moves that the Matter be placed on the docket for Hearing on December 22, 2009, at 10:00 a.m. Counsel for Defendant has confirmed that such a date and time is amenable to the Defendant.

Respectfully submitted,  
Complainant:

COMMONWEALTH OF VIRGINIA,  
*ex rel* the Department of Historic Resources

By:   
Of Counsel

R. Earl Nance, Esquire  
Senior Assistant Attorney General  
VSB#15668

Steven O. Owens, Senior Assistant Attorney General  
Chief, Real Estate and Land Use Section  
Virginia State Bar No. 20686

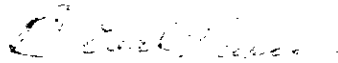
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(804) 371-2086 (fax)  
Counsel for Complainant

CERTIFICATE OF SERVICE

I hereby certify that on this 8<sup>th</sup> day of December, 2009, a true copy of the foregoing Motion for Hearing was hand-delivered or mailed, postage prepaid, to:

Mark D. Obenshain, Esq.  
Keeler Obenshain PC  
90 N. Main Street, Suite 201  
P O. Box 1287  
Harrisonburg, Virginia 22803

William H. Chambliss  
General Counsel  
State Corporation Commission  
Office of the General Counsel  
P. O. Box 1197  
Richmond, Virginia 23218-1197



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Counsel for the Commonwealth of Virginia  
*ex rel* the Department of Historic Resources