



George Latimer
County Executive

November 17, 2020

Westchester County Board of Legislators
800 Michaelian Office Building
148 Martine Avenue
White Plains, New York 10601

Dear Honorable Members of the Board of Legislators:

Transmitted herewith for your review and approval is a Local Law that, if adopted by your Honorable Board, would authorize the County of Westchester (the "County") to amend an agreement (the "PILOT Agreement") that the County entered into with Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC (collectively, "Entergy"). The Agreement provided that Entergy, as owner of the Facility (as defined below), was to make payments in lieu of taxes ("PILOT") in accordance with the provisions of section 485 of the New York Real Property Tax Law ("Section 485"), for the period from January 1, 2015 through December 31, 2024.

Local Law 2-2016 authorized the County to enter into the PILOT Agreement, which exempted the Facility from real property taxes, special *ad valorem* levies and special assessments, pursuant to Section 485, imposed by the County and any County improvement district within the County, for the period from January 1, 2015 through December 31, 2024 (the "Exemption").

The Facility was defined in Local Law 2-2016 as being comprised of the various tax parcels containing the following: (1) Indian Point 2 Nuclear Generating Station, a nuclear-powered electric generating facility having a nameplate rated capacity of 1,032 megawatts ("MW") located in the Town of Cortlandt (the "Town"), including associated property and equipment and the permanently inactive Indian Point 1 generating facility; (2) the Indian Point 3 Nuclear Generating Station, a nuclear-powered electric generating facility having a nameplate rated capacity of 1,051 MW located in the Town, including associated property and equipment; (3) the Generation Support Building; and (4) the Independent Spent Fuel Storage Facility; and all as the Facility is more fully described in the PILOT Agreement.

Due to the shutdown of the Indian Point 2 Nuclear Generating Station earlier this year, and the expected shutdown of the Indian Point 3 Nuclear Generating Station next year, a need arose for the County, and for the other municipal entities with taxing jurisdiction concerning the Facility, to examine their respective agreements for payments in lieu of taxes.

As a result of that review, the County has determined that the most prudent course of action is to amend the PILOT Agreement, in the manner specified in the draft amendment attached to the proposed Local Law (the "Proposed Amendment").

Local Law 2-2016 specified that the Exemption was contingent upon the execution of the PILOT Agreement described within that local law. As the Proposed Amendment will modify the PILOT Agreement, the proposed Local Law provides a clarification by specifying that the Exemption will remain authorized for as long as the PILOT Agreement, as modified by the Proposed Amendment, remains in effect.

The proposed Local Law also provides that the Clerk of the Board shall make all filings concerning the Exemption and the Proposed Amendment to the PILOT Agreement that are required by Section 485.

Currently, Section 485 only allows for an exemption from taxation for nuclear powered electric generating facilities that generate electricity using nuclear power for sale to the public. Legislation has already been approved by the State Assembly and the State Senate that would amend Section 485 to allow such an exemption from taxation to also be provided to a facility that formerly generated electricity using nuclear power for sale to the public (a "Former Facility"). The legislation has not yet been signed by the Governor. Accordingly, under the proposed local law, the authority to enter into the Proposed Amendment is contingent upon the Governor's signing of the legislation amending Section 485 to allow for an exemption to be provided to a Former Facility.

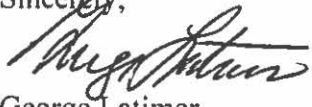
Under Section 209.141(4) of the Laws of Westchester County, every local law shall be presented in writing and introduced at a meeting of your Honorable Board. Your Honorable Board shall thereupon fix a day for a public hearing thereon before it, not less than five days thereafter, and direct the Clerk of the Board to cause notice of the time and place of such hearing to be published forthwith at least once in one or more newspapers selected by the Clerk of the Board for that purpose and published in the County. Therefore, transmitted herewith for your review and approval is a Resolution that will set the time and date for the required public hearing.

Under subsection 4 of Section 485, before an agreement for payments in lieu of taxes can be executed by a taxing district, the taxing district must hold a public hearing on the proposed agreement. Therefore, transmitted herewith for your review and approval is a Resolution that will set the time and date for the required public hearing.

The Planning Department has advised that with respect to the State Environmental Quality Review Act, this does not constitute an action as defined in section 617.2(b) of 6 NYCRR Part 617. As such, no environmental review is required.

I respectfully recommend your Honorable Board's approval of the attached Local Law.

Sincerely,

A handwritten signature in black ink, appearing to read "George Latimer", written in a cursive style.

George Latimer
County Executive

GL/JMN/bdm

**HONORABLE BOARD OF LEGISLATORS
THE COUNTY OF WESTCHESTER**

Your Committee is in receipt of a communication from the County Executive wherein he requests that your Honorable Board adopt a Local Law that, if adopted by your Honorable Board, would authorize the County of Westchester (the “County”) to amend an agreement (the “PILOT Agreement”) that the County entered into with Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC (collectively, “Entergy”). Your Committee has been advised that the Agreement provided that Entergy, as owner of the Facility (as defined below), was to make payments in lieu of taxes (“PILOT”) in accordance with the provisions of section 485 of the New York Real Property Tax Law (“Section 485”), for the period from January 1, 2015 through December 31, 2024.

Your Committee has been advised that Local Law 2-2016 authorized the County to enter into the PILOT Agreement, which exempted the Facility from real property taxes, special *ad valorem* levies and special assessments, pursuant to Section 485, imposed by the County and any County improvement district within the County, for the period from January 1, 2015 through December 31, 2024 (the “Exemption”).

Your Committee has been advised that the Facility was defined in Local Law 2-2016 as being comprised of the various tax parcels containing the following: (1) Indian Point 2 Nuclear Generating Station, a nuclear-powered electric generating facility having a nameplate rated capacity of 1,032 megawatts (“MW”) located in the Town of Cortlandt (the “Town”), including associated property and equipment and the permanently inactive Indian Point 1 generating

facility; (2) the Indian Point 3 Nuclear Generating Station, a nuclear-powered electric generating facility having a nameplate rated capacity of 1,051 MW located in the Town, including associated property and equipment; (3) the Generation Support Building; and (4) the Independent Spent Fuel Storage Facility; and all as the Facility is more fully described in the PILOT Agreement.

Your Committee has been advised that, due to the shutdown of the Indian Point 2 Nuclear Generating Station earlier this year, and the expected shutdown of the Indian Point 3 Nuclear Generating Station next year, a need arose for the County, and for the other municipal entities with taxing jurisdiction concerning the Facility, to examine their respective agreements for payments in lieu of taxes.

Your Committee has been advised that, as a result of that review, the County has determined that the most prudent course of action is to amend the PILOT Agreement, in the manner specified in the draft amendment attached to the proposed Local Law (the “Proposed Amendment”).

Your Committee has been advised that Local Law 2-2016 specified that the Exemption was contingent upon the execution of the PILOT Agreement described within that local law. Your Committee has been advised that, as the Proposed Amendment will modify the PILOT Agreement, the proposed Local Law provides a clarification by specifying that the Exemption will remain authorized for as long as the PILOT Agreement, as modified by the Proposed Amendment, remains in effect.

Your Committee has been advised that the proposed Local Law also provides that the Clerk of the Board shall make all filings concerning the Exemption and the Proposed Amendment to the PILOT Agreement that are required by Section 485.

Your Committee has been advised that, currently, Section 485 only allows for an exemption from taxation for nuclear powered electric generating facilities that generate electricity using nuclear power for sale to the public. Your Committee has been advised that legislation has already been approved by the State Assembly and the State Senate that would amend Section 485 to allow such an exemption from taxation to also be provided to a facility that formerly generated electricity using nuclear power for sale to the public (a "Former Facility"). Your Committee has been advised that the legislation has not yet been signed by the Governor. Your Committee has been advised that, accordingly, under the proposed local law, the authority to enter into the Proposed Amendment is contingent upon the Governor's signing of the legislation amending Section 485 to allow for an exemption to be provided to a Former Facility.

Your Committee has been advised that, under Section 209.141(4) of the Laws of Westchester County, every local law shall be presented in writing and introduced at a meeting of your Honorable Board. Your Committee has been advised that your Honorable Board shall thereupon fix a day for a public hearing thereon before it, not less than five days thereafter, and direct the Clerk of the Board to cause notice of the time and place of such hearing to be published forthwith at least once in one or more newspapers selected by the Clerk of the Board

for that purpose and published in the County. Therefore, transmitted herewith for your review and approval is a Resolution that will set the time and date for the required public hearing.

Your Committee has been advised that, under subsection 4 of Section 485, before an agreement for payments in lieu of taxes can be executed by a taxing district, the taxing district must hold a public hearing on the proposed agreement. Therefore, transmitted herewith for your review and approval is a Resolution that will set the time and date for the required public hearing.

The Planning Department has advised that with respect to the State Environmental Quality Review Act, this does not constitute an action as defined in section 617.2(b) of 6 NYCRR Part 617. As such, no environmental review is required. Your Committee concurs with the Planning Department's conclusion.

Your Committee has been advised that the adoption of the proposed Local Law requires an affirmative vote of a majority of the voting members of your Honorable Board.

After due consideration, your Committee recommends adoption of the proposed Local Law.

Dated: _____, 2020
White Plains, New York

COMMITTEE ON

FISCAL IMPACT STATEMENT

SUBJECT: Indian Point PILOT Amend

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount \$ -

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$ -

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget


Date: November 13, 2020

Reviewed By: 

Budget Director

Date: 11/13/20

TO: Brian Miller, Assistant County Attorney
Department of Law

FROM: David S. Kvinge, AICP, RLA, CFM 
Director of Environmental Planning

DATE: November 12, 2020

SUBJECT: **STATE ENVIRONMENTAL QUALITY REVIEW FOR INDIAN POINT
PILOT AGREEMENT AMENDMENT**

PROJECT/ACTION: Amendment of an agreement with Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC for payments in lieu of taxes (PILOT) for properties located in the Town of Cortlandt and covered by tax parcel numbers SBL #43.10-2-1, SBL #43.14-2-1, SBL #43.10-2-2 and SBL #43.10-2-3. The term of the existing agreement is from January 1, 2015 through December 31, 2024. The amendment would make several modifications to the existing PILOT agreement, including its term and payment provisions, based upon the effects of the shutdown of one, and anticipated shut down of a second, nuclear-powered electric generating facility, and the pending transfer and sale of the assets and liabilities of the entire facility. The proposed amendment is contingent upon an amendment of section 485 of the New York Real Property Tax Law by the State of New York to allow such tax exemption to be provided to a facility that formerly generated electricity using nuclear power for sale to the public.

With respect to the State Environmental Quality Review Act and its implementing regulations 6 NYCRR Part 617, the Planning Department recommends that no further environmental review is required because the project/action:

- DOES NOT MEET THE DEFINITION OF AN "ACTION" AS DEFINED UNDER SECTION 617.2(b)**
- MAY BE CLASSIFIED AS TYPE II PURSUANT TO SECTION 617.5(c) ():**
-

COMMENTS: None

DSK/cnm

cc: John Nonna, County Attorney
Andrew Ferris, Chief of Staff
Paula Friedman, Assistant to the County Executive
Tami Altschiller, Assistant Chief Deputy County Attorney
Norma Drummond, Commissioner
Claudia Maxwell, Associate Environmental Planner

RESOLUTION NO. _____ - 2020

RESOLVED, that this Board hold a public hearing pursuant to Section 209.141(4) of the Laws of Westchester County on Local Law Intro. No. _____ – 2020, entitled “A LOCAL LAW authorizing the County of Westchester to amend an agreement with Entergy Nuclear Indian Point 2, LLC and Entergy Nuclear Indian Point 3, LLC for payments in lieu of taxes, in accordance with the provisions of section 485 of the New York Real Property Tax Law, for properties located in the Town of Cortlandt that comprise the Facility defined in Local Law 2-2016.” The public hearing will be held at _____ .m. on the _____ day of _____, 2020 in the Chambers of the Board of Legislators, 8th Floor, Michaelian Office Building, White Plains, New York. The Clerk of the Board shall cause notice of the time and date of such hearing to be published at least once in one or more newspapers published in the County of Westchester and selected by the Clerk of the Board for that purpose in the manner and time required by law.