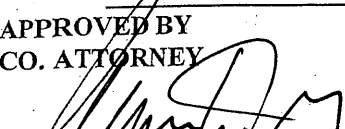


NIAGARA COUNTY LEGISLATURE

FROM: Legislators Renae Kimble and John D. Ceretto DATE: 07/28/09 RESOLUTION #IL-084-09

APPROVED BY CO. ATTORNEY	REVIEWED BY CO. MANAGER	COMMITTEE ACTION	LEGISLATIVE ACTION
		_____	Approved: Ayes _____ Abs. _____ Noes <u>0</u>
		_____	Rejected: Ayes _____ Abs. _____ Noes _____
		_____	Referred: _____

**NIAGARA COUNTY LEGISLATURE REQUESTS FINANCIAL SUPPORT FOR LEGAL ACTION AGAINST THE NEW YORK POWER AUTHORITY FROM MUNICIPALITIES AND THEIR REPRESENTATIVES WITHIN THE 30 MILE RADIUS OF THE NIAGARA POWER PROJECT**

WHEREAS, the New York Power Authority ("NYPA") authorized \$544 million dollars to be transferred to the New York State general fund on January 26, 2009, and

WHEREAS, at its January 27, 2009 meeting, the Power Authority approved a voluntary contribution of \$119 million dollars and the Power Authority said that it would account for this transfer as a \$33 million dollar expense for 2008, a \$78 million dollar expense for 2009 and a \$8 million dollar expense for 2010; and at its February 2009 meeting, the New York Power Authority approved a second voluntary contribution of \$107 million dollars with the transfer scheduled for September 2009, and

WHEREAS, the Power Authority also approved two temporary transfers of \$215 million dollars collected from ratepayers and set aside in a reserve fund to satisfy an obligation to the federal government concerning the disposal of nuclear waste, and \$103 million dollars from reserves set aside for construction projects, and

WHEREAS, the New York Power Authority ("NYPA") also approved an 11% two year rate increase for preferred-power users, and

WHEREAS, NYPA has a statutory obligation to provide the "lowest possible rates" to preferred-power users including the residents of Niagara County and those residents within the 30 mile radius of the Niagara Power Project and to charge preferred users of power generated by the Niagara Power Project at "cost", and

WHEREAS, Resolution IL-064-09 authorized Niagara County to commence legal action against the New York Power Authority seeking the reversal of the \$544 million dollars authorized to be transferred by the New York Power Authority in January and February of 2009 to the State of New York, and seeking a permanent injunction against such transfers and voluntary payments to the State of New York by the New York Power Authority, and

WHEREAS, the Niagara Power Project is currently the largest generator of power of any NYPA facility, generating 2,400,000 kilowatts of power annually, and

WHEREAS, the New York Power Authority Niagara Project is a regional asset, and with increasing profits, should come increasing returns to our local community, and

WHEREAS, if the County of Niagara is successful in its litigation against NYPA the \$544 million dollars will benefit the local municipalities within the 30 mile radius of the Niagara Project, and

WHEREAS, the County of Niagara appreciates the vocal support received from neighboring municipalities and representatives of those municipalities affected by the New York Power Authority's high

rates and transfer of millions of dollars to the State of New York, but to institute a lawsuit of this magnitude is extremely expensive, and

WHEREAS, the County of Niagara has obtained the legal services of Webster Szanyi LLP, now, therefore, be it

RESOLVED, that the Niagara County Legislature respectfully makes a formal request to neighboring municipalities and elected officials to assist Niagara County in this matter by joining this lawsuit against the New York Power Authority, and be it further

RESOLVED, that the Niagara County Legislature respectfully makes a formal request to neighboring municipalities and elected officials to assist Niagara County in this legal matter by also providing financial remuneration for the legal costs of this lawsuit which when successfully won, will provide monetary benefits and rate reductions for the residents and rate payers within the 30 mile radius of the New York Power Authority Niagara Project, and be it further

RESOLVED, that the County of Niagara shall forward a copy of this Resolution to all affected municipalities that are located within the 30 mile radius from the Niagara Project that will benefit from the successful resolution of this legal matter, and be it further

RESOLVED, that the County of Niagara shall forward a copy of this Resolution to our local elected officials, Senator Charles Schumer, Senator Kirsten Gillibrand, Congresswoman Louise Slaughter, Congressman Brian Higgins, Congressman Chris Lee, Erie County Executive Chris Collins, Erie County Legislature Chairwoman Lynn Marinelli, and City of Buffalo, Mayor Bryon W. Brown, and that a response be requested from each affected municipality and elected official.

  
LEGISLATOR RENAE KIMBLE

  
LEGISLATOR JOHN D. CERETTO