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April 11, 2005

RE: Case 05-M-0090

BY E-MAIL AND ORDINARY MAIL

Hon. Jaclyn A. Brillong
Secretary
New York State Public Service Commission
3 Empire State Plaza
Albany, New York 12223-1350

Dear Secretary Brillong,

The following are comments in response to the Notice Soliciting Comments issued April 1, 2005. I realize this letter is late given the schedule in the notice. However, the time line provided is very short. I could not read and assimilate all of the comments submitted on Friday in time to submit comments on behalf of Northern Development, LLC.

Senator Tonko's comments submitted in response to the Notice Seeking Comments dated January 28, 2005 stood out from the rest of the comments submitted in response to that notice. The majority of the comments were supportive of the renewal of the Systems Benefit Charge and complimentary about NYSERDA's management of the funds to date. Senator Tonko's comments were unique and ominous. His comments established a basis for the legislative control of the SBC and RPS programs and foreshadowed the budget provision that is the subject of the April 1st "Notice Seeking Additional Comments". His comments submitted on April 8, 2005 do nothing to allay the fears that the PSC and NYSERDA are going to loose oversight and control of the SBC and RPS funds.

I agree with his criticism that the time provided for comments is unrealistically short (therefore, this letter may be rejected as untimely), although his explanation of the schedule for the governor's review and opportunity for a veto of the specific provision that is the subject of the PSC notice makes the PSC short time schedule understandable. The balance of Senator Tonko's letter buttresses the comments that Northern was going to submit in response to the most recent Notice Seeking Comments. Senator Tonko gives me the impression he is upset that the PSC notice alerted interested parties to the money grab that was inserted into the budget. He appears to resent the general theme of the comments that I have read that are suspicious of the legislature's motive for assuming control over





the appropriations based on the commentators' experiences and observations in other States that have legislature oversight. The commentators write that in many cases the SBC funds are diverted by the legislature to the general fund. Senator Tonko demands that the writers of these comments prove these assertions or at least provide a review of the 20 states that have implemented such a policy. I think he protests too much. The truth may hurt. He says the parties submitting comments "do not, therefore, necessarily represent the entire range of opinions and concerns of the public at large". Since when has that been a concern to legislators who receive lobbyists on a daily basis?

Northern's single comment is that the New York State government, the governor and both houses of the legislative branch have been described as the most dysfunctional state government in the union. Certainly, being the highest taxed state, with the highest Medicaid reimbursement rates, out-of-control workers compensation premiums, the only state with a "scaffold law" that imposes absolute liability on the property owner and no regulatory control of health insurance premiums does nothing to contradict that opinion. Therefore, why shouldn't it concern those interested in the programs supported by the SBC that the State government now wants oversight of the SBC and RPS funds.

Thank you.

Respectfully submitted,

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Corporate Counsel
Harbec Plastics, Inc.

cc: Robert Bechtold

