

# Niagara County Industrial Development Agency

January 13, 2011

## BOARD OF DIRECTORS

Henry M. Sloma  
Chairperson

Michael W. Tucker  
First Vice Chairperson

Stephen F. Brady  
Second Vice Chairperson

Deanna Brennen  
Secretary

Joseph C. Frain

Mark A. Onesi

Patricia Dufour

William J. Bradberry

Samuel M. Ferraro  
Executive Director

Hon. Jeffrey M. Glatz, County Manager  
Philo J. Brooks Building  
59 Park Avenue  
Lockport, New York 14094

William F. Budde, Jr., Director  
Niagara County Real Property Tax Services  
59 Park Avenue  
Lockport, New York 14094

Robert Glidden, Assessor  
Somerset Town Hall  
8700 Haight Road  
Barker, New York 14012

Gordon D. Kenyon, President  
Barker Board of Education  
1628 Quaker Road  
Barker, New York 14012

Hon. William L. Ross, Chairman  
Niagara County Legislature  
175 Hawley Street  
Lockport, New York 14094

Mr. Richard J. Meyers, Supervisor  
Somerset Town Hall  
8700 Haight Road  
Barker, New York 14012

Mr. Roger Klatt, Superintendent  
Barker Central School District  
1628 Quaker Road  
Barker, New York 14012

Re: Proposed Modification to existing Payment-In-Lieu-Of-Tax Agreement between the  
Niagara County Industrial Development Agency and **AES Eastern Energy, L.P.**

Gentlemen:

On January 13, 2010, the Niagara County Industrial Development Agency (the "Agency") adopted a resolution (the "Preliminary Inducement Resolution") accepting an application from AES EASTERN ENERGY, L.P., a Delaware limited partnership (the "Company") requesting that the Agency consider undertaking a project (the "Project") consisting of: (A) the acquisition or retention by the Agency of fee title to or a leasehold interest in an approximately 1,800-acre parcel of land located at 7725 Lake Road in the Town of Somerset, Niagara County, New York (the "Land"), together with the existing 9 buildings thereon (the "Existing Improvements" and, together with the Land, the "Facility"); (B) the leasing of the Facility to the Company; (C) the granting of certain other "financial assistance" (within the meaning of Section 854(14) of the Act) with respect to a payment-in-lieu-of-tax agreement (the "PILOT Agreement") with the Company.

In February of 2010, the Agency and the Company entered into the PILOT Agreement and related documents. At that time the PILOT Agreement was considered a deviation from the Agency's Uniform Tax Exempt Policy in that the fixed PILOT payments were not distributed as per tax rates, but as a set percentage as was agreed to by the Affected Taxing Jurisdictions.

**Hon. Jeffrey M. Glatz, County Manager**  
**Hon. William L. Ross, Chairman**  
**William F. Budde, Jr., Director**  
**Mr. Richard J. Meyers, Supervisor**  
**Robert Glidden, Assessor**  
**Mr. Roger Klatt, Superintendent**  
**Gordon D. Kenyon, President**  
**January 13, 2011**  
**Page 2**

The Company has now submitted an application to the Agency requesting that the Agency consider modifying the PILOT Agreement by reducing the PILOT payments to be paid in connection with the Project. On December 15, 2010, the Agency resolved to accept the application, authorize a public hearing and distribution of a deviation letter to the affected taxing jurisdictions. The proposed PILOT payments would be distributed in the same manner as in original PILOT Agreement. The Agency proposes to take this action with respect to modifying the PILOT Agreement in order to provide stability for the Company and the taxing jurisdictions and to preserve the existing jobs.

The Agency will hold a meeting of its members on February 9, 2011, at 9:00 a.m., local time, at the Agency office, 6311 Inducon Corporate Drive, Suite One, Sanborn, New York 14132 to consider the approval of the modification of the existing PILOT Agreement.

We are providing this letter to you, pursuant to Section 874 of the General Municipal Law, as the Chief Executive Officer of an affected tax jurisdiction within which the Facility is located to notify you of a proposed deviation from the Agency's policy. Prior to taking final action on the proposed deviation, the Agency will review and respond to any correspondence received from any affected tax jurisdiction regarding such proposed deviation. The Agency will allow any representative of an affected tax jurisdiction present at the meeting to consider the proposed deviation to address the Agency regarding such proposed deviation.

Very truly yours,

**NIAGARA COUNTY INDUSTRIAL  
DEVELOPMENT AGENCY**

By:   
Samuel M. Ferraro  
Executive Director