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HAND DELIVERED

December 15, 2008

Alderman Willie L. Hines, Jr.
Common Council President
Room 205, City Hall

Re: We Energies/Consent to Assignment

Dear Alderman Hines:

By letter dated December 11, 2008, you asked this office to clarify its opinion to Alderman Bauman of December 9, 2008 regarding the request of We Energies to consent to an assignment to the City of Mequon of its agreement for water service for distribution to the City of Mequon and parts of the Village of Thiensville.

You ask whether the Common Council "can negotiate a one-time payment from We Energies during the consent process." You describe the desire to seek payment from We Energies "for water that comes from Lake Michigan via City of Milwaukee infrastructure."

As we stated in our December 9th opinion, Mequon and parts of Thiensville are existing end-users of the water supplied by Milwaukee. Milwaukee cannot demand more money from existing users in order to continue supplying water. Milwaukee is not being asked to extend water service to new end-users.

In most cases, the reason a party would refuse to consent to an assignment of the other party's obligations is because the proposed new party is somehow unacceptable. However, while it is unusual, we believe that Milwaukee can attempt to condition its consent to the assignment on a payment from We Energies, and can attempt to negotiate such a payment. The payment is not "for water" because We Energies will no longer be obtaining water from the City of Milwaukee. As explained in our prior opinion, the Common Council has a

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contractual duty to act in good faith, and should develop a reason for withholding consent in the absence of payment.

Again, the PSC could require Milwaukee's consent, or could approve the assignment without Milwaukee's consent.

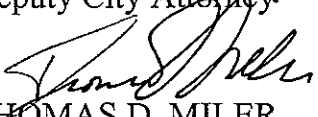
Very truly yours,



GRANT F. LANGLEY
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c: Alderman Robert Bauman
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