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State Attorney Questions GE On PCBs Profits

By CLIFF LEE
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ALBANY — A state Department of Environmental Conservation (EnCon) attorney indicated Monday that the General Electric Co. may have a financial stake, other than its production of electrical capacitors, in the continued use of PCBs.

EnCon Attorney Philip Gitlen requested Monday that GE produce for inspection all documents dealing with company patents, trademarks, royalty and license agreements with American and foreign companies for use of PCBs, dielectric fluids or products containing PCBs (polychlorinated biphenyls) in which GE receives financial reimbursement.

Gitlen told Abraham Sofaer, hearing officer presiding over the special hearings into the allegedly illegal PCB discharges into the Hudson River by the Fort Edward and Hudson Falls GE plants, that the royalty and license agreements with other companies for use of patented PCB products may constitute a financial stake by the company in continued use of PCBs.

He added that such agreements may prove to be a motive for GE testimony that a satisfactory substitute for PCBs in its capacitor production has not been discovered.

Gitlen said reliable sources indicated to him that such royalty and license agreements amount to nearly $6 million annually in additional income for GE.

Gitlen maintained that such documents on royalty and license agreements would be essential in his cross examination of GE witnesses, who testify that a PCBs substitute has not yet been found, as a possible motive for their testimony.

N. Earle Evans, attorney for GE in the hearings, assured Gitlen and Sofaer that payments to GE for royalty and license agreements with other companies were "minor" and that the total annual income the company realizes through such agreements is "no where near $6 million."

Evans also questioned the relevancy of a possible PCBs substitute in the hearings.

"I feel that the most important issue is setting a lawful level of discharge," he said.

Both parties agreed, however, that EnCon would be provided with all of the documents dealing with patents obtained by GE over the last 10 years. GE also agreed to provide EnCon with the names of companies with which it has royalty and licensing agreements for use of patented products containing PCBs and the annual gross and net revenue realized by GE through these agreements.

Gitlen also requested that GE produce all of its documents dealing with possible methods the company has investigated for removing, neutralizing or treating PCBs contaminated sediments in the Hudson River and estimated costs of such an undertaking.

Evans objected to the department's demand saying that EnCon Commissioner Ogden Reid does not have the authority to order the company to neutralize PCB contaminated sediments in the Hudson and, therefore, any material relating to such an undertaking is irrelvant.

Sofaer granted Gitlen's request, but echoed Evans' sentiments questioning the authority of Reid to order the company to neutralize the contaminated sediments.

Gitlen, in turn, agreed to file a letter with Sofaer on Monday, March 22, outlining the powers and authority of the commissioner to make certain demands of a company found guilty of violating state Conservation Law.

The remedial hearings, which are designed to arrive at a solution to the allegedly illegal discharges of PCBs into the Hudson by GE and to formulate a method of rehabilitating the river to an acceptable standard of health, are scheduled to resume on March 23 at the EnCon headquarters on Wolf Road in Colonie.

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