



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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DATE: April 9, 2013

TO: Interested Persons

FROM: Melanie A. Bachman, Staff Attorney *MAB*

RE: **CSC WIND REGULATIONS** – Adoption of Regulations pursuant to Public Act 11-245, An Act Requiring the Adoption of Regulations for the Siting of Wind Projects, Sections 16-50j-2a, 16-50j-18 and 16-50j-92 to 16-50j-96, inclusive, of the Regulations of Connecticut State Agencies.

In response to a second request from FairwindCT, Inc. (Fairwind) dated March 19, 2013, a copy of which is attached hereto, the Connecticut Siting Council (Council) held a meeting at its office on April 8, 2013 from 2 PM to 3 PM with Andrew E. Markowski, Principal of Statehouse Associates, LLC; Joyce Hemingson, President of Fairwind; Elizabeth Gara, Executive Director of the Council of Small Towns (COST); and Mike Muszynski, Legislative Associate of the Connecticut Conference of Municipalities (CCM). Chairman Robin Stein, Executive Director Linda Roberts and Staff Attorney Melanie Bachman attended the meeting on behalf of the Council.

The agenda for the meeting was limited to consideration of any changed conditions since the original draft of the wind regulations was submitted to the Legislative Regulation Review Committee (LRRC) on October 25, 2012 and to consideration of the Legislative Commissioner's Office Report (LCO Report) dated December 18, 2012 regarding different requirements for projects of different sizes.

Ms. Hemingson commenced the discussion with a summary of the Vermont Blue Ribbon Commission four-tiered approach based on generating capacity in the draft energy facility siting recommendations released on April 3, 2013. Although a tiered approach might work for Vermont, this Council cannot create regulations that would conflict with the plain language of Conn. Gen. Stat. §16-50k(a) that requires the Council to “approve by declaratory ruling... any grid-side distributed resources project or facility with a capacity of not more than 65 megawatts as long as such project meets air and water quality standards of the Department of Energy and Environmental Protection (DEEP).” Adoption of a different approach would require a legislative change.

Ms. Hemingson also referred to the National Association of Regulatory Utility Commissioners (NARUC), “Wind Energy and Wind Park Siting and Zoning Best Management Practices and Guidance for States,” which is already part of the wind regulations record, and indicated that setbacks should be based on noise. She discussed pending House Bill 1019 that proposes to make changes to the DEEP Noise Control statutes. The draft wind regulations refer to the Noise Control Regulations that are presently in existence and could be changed if and when the bill passes.

Ms. Hemingson then discussed the shadow flicker section in the proposed wind regulations as not clearly describing that cumulative shadow flicker impacts should not exceed 30 total annual hours at any off-site occupied structure. This could be clarified. Finally, Ms. Hemingson briefly discussed the status of the Falmouth, MA wind turbines.

Ms. Gara and Mr. Muszynski discussed requirements for a bond or other financial surety as part of a decommissioning plan or commissioning plan to ensure that a project would not be abandoned. The Council is an administrative agency of specific and limited jurisdiction. Its charge is to balance the public need for a facility with the environmental effects and its jurisdiction extends over a proposed facility site and access roads only. As indicated in the Summary of the Proceeding, the provisions in the draft wind regulations relative to the submission and approval of a decommissioning plan, and the submission and approval of a development and management plan, which is synonymous with a commissioning plan, represent the extent of the Council's jurisdiction and authority in this regard.

Ms. Gara and Mr. Muszynski also discussed more notice of project proposals for municipalities. Pursuant to Conn. Gen. Stat. §16-50i and Section 16-50j-40 of the Regulations of Connecticut State Agencies, which are referenced in the draft wind regulations, applicants and petitioners are required to consult with the host municipality for at least 60 days prior to submitting an application or petition with the Council and to submit proof of notice of the project proposal to the host municipality, as well as to abutting property owners, with the application or petition.

Mr. Markowski discussed the LCO Report substantive concern relative to clearly identified U.S. Fish and Wildlife Service Guidelines and DEEP standards. As indicated in the Summary of the Proceeding, environmental guidelines and standards are site-specific. He also discussed deletion of the phrase "if available" in portions of the regulations regarding the requirement for applicants and petitioners to submit the wind turbine manufacturer's technical documentation relative to noise, ice throw, blade shear and shadow flicker. This could be clarified.

Fairwind, COST and CCM were requested to submit further suggestions in writing by the close of business on or before April 12, 2013.

If any other interested person would like to submit further comments on the draft wind regulations limited to the considerations described above, the Council respectfully requests that the suggestions be submitted in writing by the close of business on or before April 12, 2013.

STATEHOUSE ASSOCIATES, LLC

GOVERNMENT RELATIONS

ORIGINAL

RECEIVED
MAR 22 2013
CONNECTICUT
SITING COUNCIL

March 19, 2013

The Honorable Robert Stein
Chairman
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Via First Class Mail & Electronic Mail

Re: MEETING REQUEST - PROPOSED INDUSTRIAL WIND TURBINE REGULATIONS

Dear Chairman Stein:

Thank you for your previous correspondence dated February 6, 2013. I am writing once again on behalf of my client, FairWindCT Inc. ("FairWind") to request a meeting with you and members of your staff at the Connecticut Siting Council ("Council"), as appropriate, to discuss the Council's proposed wind turbine regulations developed pursuant to Public Act 11-245. In addition, representatives from both the Connecticut Conference of Municipalities ("CCM") and the Connecticut Council of Small Towns ("COST") have asked me to convey their interest in participating in such a meeting as well.

After reviewing the revised regulations that accompanied the Council's cover letter to the Regulations Review Committee dated February 5, 2013, FairWind's concerns regarding the proposed regulations remain. We understand that the regulations are still undergoing legal sufficiency review by the Attorney General's Office at this time and as such, have not yet been resubmitted to the Regulations Review Committee. We would like to suggest that we use this time to meet regarding the concerns of FairWind, CCM and COST.

I also want to express FairWind's overall stance on the issue. FairWind sincerely believes that comprehensive, statewide regulations regarding the siting of industrial wind turbines are both necessary and appropriate; FairWind was an advocate of the enabling legislation in this regard. However, FairWind also believes that any regulations must protect public health, safety, the environment and make economic sense for communities and others who may be impacted as well. While acknowledging FairWind's participation in the formal hearing process under the Uniform Administrative Procedures Act, I want to reiterate FairWind's desire to be able to further work together with the Council and other interested parties such as CCM and COST in a collaborative manner to help develop thoughtful, balanced regulations that work for all parties.

Representatives from FairWindCT, CCM, COST and myself remain happy to schedule a meeting at your earliest convenience. Please let me know if there is any additional information I may be able to provide.

Thank you in advance for your consideration.

Sincerely,



Andrew E. Markowski,
On behalf of FairWindCT