

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**Petition of BNE Energy Inc. for a
Declaratory Ruling for the Location,
Construction and Operation of a 3.2 MW
Wind Renewable Generating Project on
New Haven Road in Prospect,
Connecticut (“Wind Prospect”)**

Petition No. 980

April 29, 2011

**OBJECTION TO PARTICIPATION MEMORANDUM
REGARDING CHAIRMAN STEIN**

FairwindCT, Inc., Susan Wagner and Stella and Michael Somers (the “Grouped Parties”) hereby object to the Participation Memorandum distributed by the Council to all parties and intervenors, dated April 21, 2011. The Grouped Parties object to Chairman Stein’s participation in the decision regarding this petition pending the receipt of additional information from the Council with respect to the nature and scope of the Chairman’s site visit. The Grouped Parties further object to Chairman Stein’s participation in the decision regarding this petition based on language in the Participation Memorandum that indicates Chairman Stein has already decided to vote in favor of the petition.

**I. The Grouped Parties Request Additional Information
Regarding the Nature and Scope of Chairman Stein’s Site Visit**

The Participation Memorandum states that Chairman Stein “read the transcripts, visited the site and reviewed the records in these proceedings.”

No information has been provided regarding when the Chairman conducted his site visit, with whom the visit was taken, and the duration of such visit. The proposed project site is private property. Presumably, Chairman Stein was granted permission to visit the site, and it seems reasonable that he may have been accompanied on his site visit by one or more individuals.

The Grouped Parties therefore request that the Council provide the date, approximate time and duration of Chairman Stein's site visit and also provide the names and affiliations of any individual who accompanied him on his site visit. Until such information is provided, the Grouped Parties object to the Chairman's participation in the decision regarding this petition.

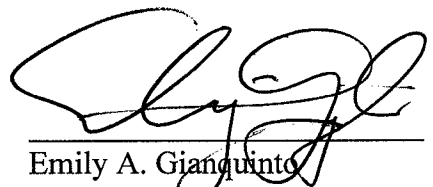
II. The Participation Memorandum Indicates that Chairman Stein Has Pre-Judged the Merits of this Petition

The Participation Memorandum states that "Chairman Stein intends to participate in the deliberations and vote for the above referenced proceeding" (emphasis added).

This language indicates that the Chairman has determined that he will vote to approve the petition filed by the petitioner. The Grouped Parties therefore object to the Chairman's participation on the grounds that he has pre-judged the merits of the petition, which is cause for disqualification. "The test for disqualification has been succinctly stated as being whether a disinterested observer may conclude that [the hearing officer] has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it." Elf v. Dep't of Pub. Health, 66 Conn. App. 410, 426, 784 A.2d 979 (2001) (alteration in original).

WHEREFORE, the Grouped Parties object to the Participation Memorandum distributed by the Council.

By:



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CERTIFICATION

I hereby certify that a copy of the foregoing document was delivered by first-class mail
and e-mail to the following service list on the 29th day of April, 2011:

Carrie L. Larson
Paul Corey
Jeffrey J. Tinley
Hon. Robert J. Chatfield
Thomas J. Donohue, Jr.
Eric Bibler

and sent via e-mail only to:

John R. Morissette
Christopher R. Bernard
Joaquina Borges King



Emily A. Cianquinto