

**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 980

May 2, 2011

**PETITIONER’S REPLY RE FAIRWINDCT, INC’S OBJECTION TO
PARTICIPATION OF CHAIRMAN STEIN**

The petitioner, BNE Energy Inc. (“BNE”), submits this reply brief in response to party FairwindCT, Inc.’s (“Fairwind”) objection to Chairman Stein’s participation in the deliberations and vote concerning this pending petition. Fairwind’s objections are baseless. BNE states for the record that it has no objection to Chairman Stein’s participation in this proceeding.

1. This petition was filed on November 17, 2010, almost six months ago.
2. As the Council is aware, former Chairman Caruso resigned from the Council on or about March 24, 2011. Chairman Stein was appointed to serve as Chairman of the Council on that same date.
3. Chairman Stein has stated on the record that he has reviewed the transcripts and record of this proceeding and has visited the site and therefore intends to participate in the deliberations concerning this petition.
4. Fairwind objects to Chairman Stein’s participation on two bases: 1) Fairwind requests more information concerning Chairman Stein’s site visit and 2) Fairwind draws the preposterous conclusion that, based on the wording of the Council memorandum concerning Chairman Stein’s participation that was not authored by Chairman Stein, that Mr. Stein is

somehow predisposed or biased. Both of these bases are unfounded as further discussed below.

5. Fairwind requests more information concerning Chairman Stein's field review and seems to imply that Chairman Stein may have visited the site with representatives from BNE. First, Fairwind wholly ignores the fact that a site visit is neither a statutory nor a regulatory requirement for the Council's review of a petition for declaratory ruling. Therefore, Chairman Stein was not required to visit the site at all. Second, Fairwind's insinuation that Chairman Stein visited the property with representatives from BNE is wholly unsupported and simply false. BNE states on the record that they have never discussed a field review of the site with or for Chairman Stein with Mr. Stein or any member of the Council staff.

6. Fairwind makes the baseless argument that the Chairman has demonstrated bias based on its tortured reading of the wording of the Council's April 21, 2011 memorandum concerning Chairman Stein's participation. First, it is clear from the memorandum itself that Chairman Stein did not draft the memorandum. Second, Fairwind's tortured reading of the memorandum is clearly self-created in order to reach the unsupported conclusion that Chairman Stein is biased, in yet another effort to create procedural issues for its inevitable appeal of the Council's decision on this petition.

7. BNE states for the record that it has no objection to Chairman Stein's participation in the deliberations concerning this petition since Chairman Stein's participation is in full compliance with the Council's statutes and regulations as well as the Administrative Procedures Act.

WHEREFORE, BNE requests that the Council overrule Fairwind's objections concerning Chairman Stein's participation.

Respectfully Submitted,

By: /s/ Carrie L. Larson
Attorney For BNE Energy Inc.
Carrie L. Larson, Esq.
clarson@pullcom.com
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Ph. (860) 424-4312
Fax (860) 424-4370

Certification

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

Mayor Robert Chatfield
Town Office Building
36 Center Street
Prospect, CT 06712-1699

Jeffrey Tinley
Tinley, Nastri, Renehan & Dost LLP
60 North Main Street
Second Floor
Waterbury, CT 06702

Thomas J. Donohue
Killian & Donohue, LLC
363 Main Street
Hartford, CT 06106

John R. Morissette
Manager-Transmission Siting and Permitting
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Christopher R. Bernard
Manager-Regulatory Policy (Transmission)
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Joaquina Borges King
Senior Counsel
The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Nicholas J. Harding
Emily A. Gianquinto
Reid and Riege, P.C.
One Financial Plaza
Hartford, CT 06103

Eric Bibler
31 Old Hyde Road
Weston, CT 06883

/s/ Carrie L. Larson
Carrie L. Larson

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