

**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

February 25, 2011

FAIRWINDCT, INC.’S MOTION FOR COUNCIL TO ISSUE SUBPOENA


FairwindCT, Inc. (“FairwindCT”), hereby submits the following motion for the Siting Council to issue a subpoena pursuant to Connecticut General Statutes § 4-177b, directed to the most appropriate representative(s) from GE Energy (“GE”), to testify about: (1) GE guidelines, rules, or policies regarding appropriate setbacks for siting wind turbines; and (2) the Mechanical Loads Assessment conducted by GE with respect to Wind Prospect. In support of this motion, FairwindCT states the following:

1. On February 9, 2011, FairwindCT issued its first set of interrogatories to the petitioner, BNE Energy, Inc. (“BNE”).
2. On February 16, 2011, pursuant to the deadlines set by the Council, BNE filed its answers to FairwindCT’s interrogatories. In response to three interrogatories, BNE indicated that the information requested was confidential and was therefore being filed with the Council pursuant to a motion for protective order and to file under seal.

3. The interrogatory questions and answers included the following:
 - Q8. Please provide a copy of the Mechanical Loads Assessment conducted by GE and described in your responses to questions 1, 2 and 6 of the Council's first set of interrogatories, dated February 3, 2011.
 - A8. The information requested is confidential and proprietary. Therefore, BNE is filing the MLA separate to these responses and subject to a protective order and under seal with the Council.
 - Q12. On February 3, 2011, Mr. Corey testified at a hearing before the Energy and Technology Committee of the Connecticut legislature and stated that GE has "lots of rules" regarding setbacks that BNE has followed. Please provide copies of those rules.
 - A12. The information requested is confidential and proprietary. Therefore, BNE is filing GE information separate to these responses and subject to a protective order and under seal with the Council.
4. Pursuant to Connecticut General Statutes § 4-177b, "[i]n a contested case, the presiding officer may . . . subpoena witnesses and require the production of records, physical evidence, papers and documents to any hearing held in the case."
5. As the above answers to FairwindCT's interrogatories make clear, certain information vital to consideration of BNE's petition is directly related to either certain policies of GE or specific studies performed by GE with respect to the above-captioned petition.

6. The Siting Council has the authority to compel a representative from GE to provide testimony regarding both GE's "rules" cited by BNE governing setback considerations and the Mechanical Loads Assessment performed by GE.
7. This evidence is necessary to the Siting Council's full and fair consideration of BNE's petition, particularly with respect to whether Wind Prospect as proposed complies with the rules, policies, practices, and recommendations of GE, the manufacturer of the turbines BNE plans to install.
8. This evidence is also necessary to permit the Council to adequately address the many concerns expressed during the public hearings by residents who live in close proximity to the proposed turbine locations. The residents' understandable and reasonable concerns regarding safety and health issues arising out of the proximity of these turbines to their homes must be properly considered by the Council, and the only way to ensure that the Council has the information necessary to fully analyze this petition's impact is to have the opportunity to question a representative of GE.
9. This evidence is also necessary to permit the parties opposing this petition, including FairwindCT, the opportunity to cross examine a GE representative on the proposed layout of Wind Prospect and whether it complies with the manufacturer-recommended setbacks.

WHEREFORE, FairwindCT respectfully requests that the Siting Council issue a subpoena pursuant to Section 4-177b of the General Statutes, directed to the most appropriate representative(s) from GE, to testify about: (1) GE guidelines, rules, or policies regarding appropriate setbacks for siting its wind turbines; and (2) the Mechanical Loads Assessment conducted by GE with respect to Wind Prospect.

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PROPOSED ORDER

Whereas, the evidentiary hearing in this matter began on February 24, 2011;

Whereas, the petitioner BNE Energy Inc. (“BNE”) has submitted into the record under seal certain information related to setback policies, considerations and rules developed by the manufacturer of the turbines proposed to be used at Wind Prospect;

Whereas, BNE has submitted into the record under seal a Mechanical Loads Assessment conducted by GE with regard to Wind Prospect;

Whereas, the Council desires to have the opportunity to fully and fairly consider whether Wind Prospect complies with GE’s policies and rules regarding appropriate siting of its turbines;

Whereas, the Council desires to have the opportunity to fully and fairly consider residents’ concerns related to the safety of siting Wind Prospect as proposed;

IT IS HEREBY ORDERED that the Council will issue a subpoena directed to the most appropriate representative(s) from GE to testify about: (1) GE guidelines, rules, or policies regarding appropriate setbacks for siting wind turbines; and (2) the Mechanical Loads Assessment conducted by GE with respect to Wind Prospect.

SO ORDERED:

CONNECTICUT SITING COUNCIL

By: _____
Daniel F. Caruso, Chairman

Date: _____

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 25th day of February, 2011:

Carrie L. Larson
Paul Corey
Jeffrey J. Tinley
Hon. Robert J. Chatfield
Thomas J. Donohue, Jr.
John R. Morissette
Christopher R. Bernard
Joaquina Borges King
Eric Bibler
Andrew W. Lord
Cindy Gaudino

A handwritten signature in black ink, appearing to read "Emily Gianquinto", written over a horizontal line.

Emily Gianquinto