

**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 8, 2011

OBJECTION TO PRE-HEARING PROCEDURE

FairwindCT, Inc. (“FairwindCT”) hereby objects to the Pre-hearing Procedure established in the notice of February 4, 2011 addressed to the parties and intervenors (the “Notice”):

1. FairwindCT filed for party status in this proceeding by request dated January 25, 2011. FairwindCT’s request for party status was amended on February 7, 2011 by way of a verified notice of intervention under the Connecticut Environmental Protection Act.
2. FairwindCT’s request for party status is presently pending before the Siting Council and will not be acted upon until the Council’s next regularly scheduled meeting on February 8, 2011.
3. On February 4, 2011, the Siting Council held a pre-hearing conference regarding this proceeding and requested that all parties and intervenors attend.
4. FairwindCT’s attorneys attended and participated in the conference.
5. BNE repeatedly objected to FairwindCT’s participation in the conference because of FairwindCT’s pending party status request.
6. At the conference, FairwindCT asked Council staff whether the deadlines for the final exchange of interrogatories and pre-filed testimony set forth in the Notice

could be adjusted to accommodate FairwindCT's late entry into these proceedings.

7. Presently, the deadlines applicable to all parties call for the final exchange of interrogatories to take place on February 9, 2011, just one day after FairwindCT will learn if its party status application will be granted. FairwindCT asked if that deadline could be adjusted to provide it with time to engage and consult with experts prior to filing such interrogatories. FairwindCT's request was denied.
8. Presently, the deadlines applicable to all parties call for pre-filed testimony to be filed on February 16, 2011, just eight days after FairwindCT will learn if its party status application will be granted. FairwindCT asked if that deadline could be adjusted to provide it with time to engage and consult with experts prior to submitting pre-filed testimony. FairwindCT's request was denied.
9. FairwindCT and counsel for two parties to this proceeding asked if the pre-filed testimony deadlines could be adjusted so that their experts may consider BNE's responses to interrogatories, which are presently due the same day as pre-filed testimony, before filing their direct examination testimony. FairwindCT's request was denied.
10. FairwindCT objects to the deadlines as set forth in the Notice. The Council has asked that all parties submit the direct examination of their experts via pre-filed testimony. Because BNE will not respond to interrogatories issued by the parties opposing the petition until February 16, 2011, all parties opposing the petition will be effectively barred from presenting comprehensive direct testimony of their experts.

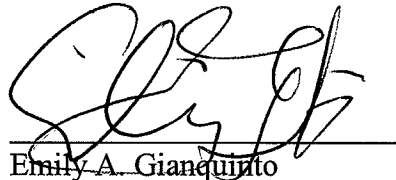
11. The deadlines in the Notice do not permit the parties opposing the petition adequate time to interview, engage and consult with the experts who are necessary to assist in cross-examining BNE's witnesses. BNE has had more than two years to study the site, engage its experts and prepare for this proceeding. FairwindCT was only formed in mid-December, after BNE filed its petition, which requires the Council to conduct an expedited review.
12. The deadlines in the Notice are prejudicial to FairwindCT, in that FairwindCT will not have a reasonable opportunity between the late afternoon of February 8, 2011 (when the Council announces its decision regarding FairwindCT's party status request) and February 9, 2011, the deadline for final exchange of interrogatories, to draft those interrogatories. FairwindCT also will not have a reasonable opportunity in which to seek input from any experts it may hire to assist in this proceeding prior to that deadline.
13. The deadlines in the Notice are prejudicial to FairwindCT, in that FairwindCT will not have a reasonable opportunity between the late afternoon of February 8, 2011 (when the Council announces its decision regarding FairwindCT's party status request) and February 16, 2011, the deadline for pre-filed testimony, to engage experts to file such testimony. Any experts that FairwindCT engages also will not have a reasonable opportunity to review the petition, formulate opinions and draft their pre-filed testimony in that amount of time.
14. The deadlines in the Notice are prejudicial to FairwindCT, in that FairwindCT will not have a reasonable opportunity between the late afternoon of February 8, 2011 (when the Council announces its decision regarding FairwindCT's party

status request) and February 24, 2011, the first day of the evidentiary hearing, to engage consult with any experts it hires in preparation for cross examining BNE's witnesses.

15. FairwindCT cannot reasonably be expected to expend its resources on attorney time and expert time related to preparing interrogatories, consulting with experts and drafting pre-filed testimony prior to being made a party to this proceeding.
16. The schedule in the Notice is prejudicial to FairwindCT's ability to put forth its case against the petition through direct examination, and will effectively limit FairwindCT's participation in this proceeding to cross-examination of BNE's witnesses.

WHEREFORE, FairwindCT objects to the schedule and deadlines set forth in the Notice.

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 8th 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



Emily Gianquinto