

**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

March 2, 2011

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

The petitioner, BNE Energy Inc. (“BNE”), submits this objection to FairwindCT, Inc.’s (“Fairwind”) motion for the Council to issue a subpoena requiring a representative from GE Energy (“GE”) to testify at the proceedings in this matter.

As a threshold issue, for the Council to grant this motion would be unprecedented. GE is simply a manufacturer – not a developer or proponent of the BNE’s proposed wind renewable generating project. The Council has never issued a subpoena or required equipment manufacturers to testify at proceedings and be subject to cross examination. To grant this request would be to set a perilous precedent for other proceedings going forward.

Furthermore, as already discussed in this proceeding, the information Fairwind states that it requires from GE is subject to a confidentiality agreement. Just as BNE cannot publicly disclose GE’s confidential and proprietary information, GE will also not testify to the materials subject to such an agreement. Therefore, granting Fairwind’s request would be ineffectual.

Above all, issuing a subpoena to require a GE representative to testify at the hearings in this proceeding is completely unnecessary. BNE has provided all requested GE documents to the Council subject to a protective order. This information is already in the

record and can readily be accessed and consulted by the Council in rendering its decision on BNE's petition.

As Fairwind itself notes in paragraph 2 of its motion, "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"

Despite its acknowledgement that the information it is demanding – and that it is demanding a representative from GE be hauled in to testify about, no less – has already been filed with the Council, Fairwind then argues that this information 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 rules, policies, practices and recommendations of GE" It is not the Council's role to enforce or require a developer's compliance with manufacturer guidelines, policies or recommendations.

Given that the requested information has already been filed with the Council by BNE and that this information is therefore a part of the record in this proceeding, the Council already has all of the information necessary for its full and fair consideration of BNE's petition with respect to whether Wind Prospect as proposed complies with GE rules and recommendations. Fairwind's request for the Council to haul in a GE representative would therefore be ineffectual and this request should be denied.

WHEREFORE, BNE requests that the Council deny Fairwind's motion for the Council to subpoena a GE representative to testify at the proceedings in this matter.

Respectfully Submitted,

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Certification

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

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