

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051


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E-Mail: siting.council@ct.gov

www.ct.gov/csc

DATE: April 8, 2011

TO: Parties and Intervenors

FROM: Linda Roberts, Executive Director 

RE: **PETITION NO. 980** - BNE Energy, Inc. petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the construction, maintenance, and operation of a 3.2 MW Wind Renewable Generating facility located at 178 New Haven Road, Prospect, Connecticut.

During the evidentiary hearing for the above-referenced matter held on March 31, 2011, the Connecticut Siting Council (Council) ruled on the following motions and objections:

- 1. Save Prospect Corp's (SPC) Motion for Permission to Serve Additional Interrogatories to BNE dated March 23, 2011.**
SPC's motion was denied.
- 2. FairwindCT, Inc. (Fairwind) Motion for Reconsideration of Protective Order as it Relates to GE Setback Recommendations dated March 28, 2011.**
Fairwind's motion was denied.
- 3. Fairwind Motion for Reconsideration of Protective Order as it Relates to GE Mechanical Loads Assessment dated March 28, 2011.**
Fairwind's motion was denied.
- 4. Fairwind Motion for Reconsideration of Protective Order as it Relates to GE Noise Emission Characteristics dated March 28, 2011.**
Fairwind's motion was denied.
- 5. Fairwind Request to file Second Supplemental Pre-Filed Testimony of William F. Carboni dated March 28, 2011.**
Fairwind's request was granted without objection from BNE on the stipulation that Mr. Carboni's written testimony be notarized and re-submitted.
- 6. Fairwind Objection to Notice of Hearing Procedure and Hearing Program dated March 28, 2011.**
Fairwind's objection was denied.
- 7. LaMontagne Motion for Clarification dated March 28, 2011.**
LaMontagne's motion was granted. The Council's statutorily imposed standard of review for a petition for declaratory ruling filed pursuant to C.G.S. §16-50k, C.G.S. §4-176 and R.C.S.A. §16-50j-38 is to make a determination that the proposed facility will not have a substantial adverse environmental effect and therefore would not require a Certificate of Environmental Compatibility and Public Need. The Council's decision as to substantial

adverse environmental effect is governed by the criteria set forth under C.G.S. §16-50p for an electric generating facility, which states in part - the nature of the probable environmental impact of the facility on the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife.

8. Fairwind Motion for Mistrial or in the Alternative for Continuance, Reconsideration and to Alter Schedule dated March 29, 2011.

Fairwind's motion for mistrial was denied. Fairwind's alternative motion was denied in part as it related to continuance and to alter schedule. Fairwind's alternative motion was granted in part as it related to reconsideration. The Council thereby reaffirmed the following past rulings of the Council in these proceedings:

1. Town of Prospect Request for Party Status granted 1/6/11;
2. SPC Request for Party Status granted 1/6/11;
3. Satkunas and LaMontagne Request for Party Status granted 1/20/11;
4. CL&P Request for Intervenor Status granted 1/20/11;
5. Fairwind Request for Party Status granted 2/8/11;
6. Fairwind Request to Consolidate Evidentiary Hearings dated 1/31/11, denied 2/24/11;
7. SPC Request for Relief dated 1/14/11, denied 2/24/11
8. Fairwind Notice of CEPA Intervention as a Party dated 2/7/11, granted 2/24/11;
9. SPC Notice of CEPA Intervention as a Party dated 2/11/11, granted 2/24/11;
10. Fairwind Objection to Pre-Hearing Procedure dated 2/8/11, denied 2/24/11;
11. Bibler Request for Intervenor Status dated 2/14/11, granted 2/24/11;
12. CT Water Company Request for Party Status dated 2/16/11, granted 2/24/11;
13. BNE Motion for Protective Order dated 2/16/11, granted 2/24/11;
14. Fairwind Motion to Delay Proceedings dated 2/18/11, denied 2/24/11;
15. Fairwind Motion to Compel Interrogatory Responses or Strike dated 2/18/11, denied 2/24/11;
16. BNE Request for List of SPC Members dated 2/22/11, denied 2/24/11;
17. BNE's Motions to Strike SPC Pre-Filed Testimony of Witnesses Pressman, McCann, Bronzaft and Philips, SPC Admin Notice and SPC Exhibits dated 2/23/11, denied 2/24/11;
18. Fairwind Objection to Hearing Procedure and Program dated 2/23/11, denied 2/24/11;
19. Fairwind Motion to Strike Certain Evidence from the Record dated 2/23/11, denied 2/24/11;
20. Fairwind Motion for Council to Issue Subpoena to GE dated 2/25/11, denied 3/3/11 ;
21. CL&P Motion for Protective Order dated 3/8/11, granted 3/15/11;
22. Fairwind Objection and Motion to Modify BNE Protective Order dated 3/7/11, denied 3/15/11;
23. BNE Objection to SPC Pre-Filed Exhibits and Requests for Admin Notice 3/14/11, denied 3/15/11;
24. BNE Objection to Subpoenas dated 3/11/11 issued by SPC to CCEF and CI 3/14/11, denied 3/15/11.

9. Fairwind Motion for Council to Issue Subpoena dated March 29, 2011.

Fairwind's motion for the Council to issue a subpoena to Michael Guski, principal of the Council's renewable energy consultant, Epsilon Associates, was denied.

10. BNE Objection to Subpoena issued by Fairwind to Michael Klemens dated March 29, 2011.

BNE's objection to subpoena issued to Michael Klemens was denied. Mr. Klemens did not become a party and was not identified as a witness for a party in this proceeding. The Council did not require Mr. Klemens to appear, however a subpoena may only be quashed in Superior Court.

11. BNE Objection to Subpoena issued by Fairwind to Frederick Riese dated March 29, 2011.

BNE's objection to subpoena issued to Frederick Riese was denied. Mr. Riese did not become a party and was not identified as a witness for a party in this proceeding. The Council did not require Mr. Riese to appear and noted its concurrence with the reasoning as set forth in the Department of Environmental Protection (DEP) letter dated March 29, 2011 (Item I.E.4. on the Hearing Program dated March 31, 2011), however a subpoena may only be quashed in Superior Court.

12. SPC Request to File Amended and Supplemental Testimony of Andrey Kamenskiy dated March 30, 2011.

SPC's request was granted without objection from BNE on the stipulation that Mr. Kamenskiy's written testimony be notarized and re-submitted.

13. SPC Request for Supplemental Exhibits and Request for Administrative Notice dated March 29, 2011.

SPC's request was denied in part as to the admission of the Supplemental Exhibits and allowed those items listed as Supplemental Exhibits in the request to be admitted as additional Administrative Notice Items. SPC's request was granted in part as to the admission of the listed Administrative Notice items in the request.

14. SPC Motion to Strike comments filed by the DEP on March 14, 2011 dated March 31, 2011.

SPC's motion was denied.

The Council requests that the pre-filed testimony of Mr. Carboni and Mr. Kamenskiy be notarized and resubmitted pursuant to stipulation on or before April 15, 2011.

Briefs and proposed findings of fact may be filed with the Council by any party or intervenor no later than May 2, 2011. After the Council issues its draft findings of fact, parties and intervenors may identify errors or inconsistencies between the Council's draft findings of fact and the record. No new information, evidence or arguments will be considered by the Council. No reply briefs without the Council's permission will be considered by the Council. Members of the public who are not parties or intervenors to this proceeding may submit additional written comments to the Council on or before May 2, 2011.

LIST OF PARTIES AND INTERVENORS
SERVICE LIST

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	<input checked="" type="checkbox"/> U.S. Mail	BNE Energy, Inc.	Carrie L. Larson, Esq. Pullman & Comley, LLC 90 State House Square Hartford, CT 06103-3702 (860) 424-4312 (860) 424-4370 fax clarson@pullcom.com Paul Corey, Chairman BNE Energy Inc. Town Center, Suite 200 29 South Main Street West Hartford, CT 06107 (860) 561-5101 (888) 891-6450 fax pcorey@bneenergy.com
Party <i>(granted on 01/06/11)</i>	<input checked="" type="checkbox"/> U.S. Mail	Town of Prospect	The Honorable Robert J. Chatfield Mayor Prospect Town Office Building 36 Center Street Prospect, CT 06712-1699 (203) 758-4461 Town.of.prspct.@sbcglobal.net
Party <i>(granted on 01/06/11)</i>	<input checked="" type="checkbox"/> U.S. Mail	Save Prospect Corp (SPC)	Jeffrey J. Tinley, Esq. Anthony J. Interlandi, Esq. Tinley, Nastro, Renahan & Dost, LLP 60 North Main Street Waterbury, CT 06702 (203) 596-9030 (203) 596-9036 fax jtinley@tnrdlaw.com noisyprospect@comcast.net
Party <i>(granted 02/08/2011)</i>	<input checked="" type="checkbox"/> E-Mail	FairwindCT, Inc. P.O. Box 225 Colebrook, CT 06021 (860) 379-6425 info@fairwindct.com	Nicholas J. Harding Emily A. Gianquinto Reid and Riege, P.C. One Financial Plaza, 21 st Floor Hartford, CT 06103 (860) 240-1011 (860) 240-1025 nharding@rrlawpc.com egianquinto@rrlawpc.com

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Intervenor <i>(granted on 02/24/11)</i>	<input checked="" type="checkbox"/> U.S. Mail	<i>Grouped with Save Prospect Corp./FairwindCT, Inc.</i> Eric Bibler 31 Old Hyde Road Weston, CT 06883 (203) 454-7850 (203) 246-2997 – cell ebibler@gmail.com	
Party <i>(granted on 01/20/11)</i>	<input checked="" type="checkbox"/> E-Mail	John and Cheryl Lamontagne 225 New Haven Road Prospect, CT 06712 (203) 509-4158 John.lamontagneconstco.com Thomas and Eileen Satkunas 232 New Haven Road Prospect, CT 06712 (203) 592-1344 Tom.satkunas@snet.net	Thomas J. Donohue, Jr., Esq. Killian & Donohue, LLC 363 Main Street Hartford, CT 06106 (860) 560-1977 (860) 249-6638 tj@kdjlaw.com
Party <i>(granted on 02/24/11)</i>	<input checked="" type="checkbox"/> U.S. Mail	Connecticut Water Company STATUS WITHDRAWN 03/30/11	Andrew W. Lord, Esq. Murtha Cullina LLP CityPlace I – 185 Asylum Street Hartford, CT 06103 (860) 240-6000 alord@murthalaw.com Cindy Gaudino Manager Source Protection & Real Estate Connecticut Water Company 93 West Main Street Clinton, CT 06413 (800) 428-3985

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Intervenor <i>(granted on 01/20/11)</i>	<input checked="" type="checkbox"/> E-Mail	The Connecticut Light and Power Company	<p>John R. Morissette Manager – Transmission Siting and Permitting Northeast Utilities Service Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-2036 (860) 665-6933 fax morisjr@nu.com</p> <p>Christopher R. Bernard Manager, Regulatory Policy (Transmission) The Connecticut Light and Power Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-5967 (860) 665-3314 fax bernacr@nu.com</p> <p>Joaquina Borges King Senior Counsel Northeast Utilities Service Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-3678 (860) 665-5504 fax borgej@nu.com</p>