

CONNECTICUT SITING COUNCIL

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.

February 24, 2011

PROTECTIVE ORDER

WHEREAS, BNE Energy, Inc. (BNE) has filed with the Connecticut Siting Council (Council) a petition for declaratory ruling for the location, construction and operation of a 3.2 MW wind renewable generating project at 178 New Haven Road in Prospect, Connecticut; and

WHEREAS, BNE has filed with the Council a Motion for Protective Order and Motion to File Under Seal dated February 16, 2011 pertaining to certain materials and information that are confidential and proprietary business information (Protected Materials) of BNE and GE Energy (GE); and

WHEREAS, the Council by unanimous vote on February 24, 2011, in the above-referenced petition granted the Motion for Protective Order and Motion to File Under Seal filed by BNE dated February 16, 2011 pertaining to the Protected Materials ; and

WHEREAS, disclosure of the Protected Materials would result in the disclosure of, including, but not limited to, confidential and proprietary information of BNE and GE, and thereby undermine the competitive positions of BNE and GE.

NOW, THEREFORE, IT IS HEREBY ORDERED by the Connecticut Siting Council that the following procedures are adopted for the protection of the Protected Materials provided by or through the petitioner in connection with this proceeding:

1. This Protective Order shall govern the Protected Materials provided by BNE.
2. All such Protected Materials made available pursuant to this Protective Order shall be used by any person receiving such information solely for the purposes of participating in this proceeding ("Petition 980") and for no other purpose whatsoever.
3. The Protected Materials made available in Petition 980 shall be given solely to the members and staff of the Council who are bound by the terms of this Protective Order; provided, however the Protected Materials may be made available to the parties and intervenors to Petition 980, all of whom shall execute the attached Non-Disclosure Agreement and be bound by the terms of this Protective Order.

4. All persons granted access to the Protected Materials pursuant to Paragraph 3 shall take all reasonable precautions to keep this information secure in accordance with the purposes and intent of this Protective Order.
5. One copy of the Protected Materials shall be marked "CONFIDENTIAL – PROPRIETARY INFORMATION" on the top of each page by BNE and shall be delivered in a sealed envelope marked "CONFIDENTIAL – PROPRIETARY INFORMATION" with the following language:


"This envelope is not to be opened nor the contents to be displayed or revealed except pursuant to the pertinent Protective Order issued in Petition 980."

6. The Protected Materials shall be part of the record, subject to the conditions stated in Paragraphs 8 and 9.
7. Nothing herein shall be construed as a final determination that any of the Protected Materials will be admissible as substantive evidence in Petition 980, any administrative appeal, or any future proceedings, or at any hearing or trial. Moreover, nothing herein shall be considered a waiver of any party or intervenor's right to assert at a later date that the material is or is not proprietary or privileged. A party or intervenor seeking to change the terms of the Protective Order shall by motion give every other party and intervenor ten business days prior written notice. No information covered by the Protective Order shall be made public until the Council rules on any such motion to change the terms of the Protective Order.
8. If the Protected Materials are used in any manner, in any letter, brief, petition, interrogatory or other written document, the confidentiality of the Protected Materials shall be preserved by either: (a) prominently labeling the document "CONFIDENTIAL – PROPRIETARY INFORMATION" and limiting the recipients of such document to members and staff of the Council, and any party or intervenor to Petition 980 if the party or intervenor has executed a Non-Disclosure Agreement; or (b) referring to the Protected Materials in the document solely by title or exhibit reference in a manner reasonably calculated not to disclose the proprietary, trade secret information set forth in the Protected Materials.
9. If the Protected Materials are used in any manner in any proceeding or hearing before the Council, such proceeding or hearing shall not be held before, nor any record of it made available to any person or entity not affiliated with the Council. Provided each person has executed a Non-Disclosure Agreement, the reviewing representatives of any party or intervenor to Petition 980 may also be present at, or receive a record of, any proceeding or hearing conducted with respect to the Protected Materials.

10. Access to the Protected Materials by any party or intervenor to Petition 980 who has executed a Non-Disclosure Agreement shall be granted only at the Council office located at 10 Franklin Square, New Britain, Connecticut. No photocopying, no tape recording, no photographs, and no note-taking of any kind whatsoever of the protected materials will be permitted.
11. Any party or intervenor to Petition 980 may discuss the Protected Materials with any other party or intervenor to Petition 980 as long as each party or intervenor to the discussion has executed a Non-Disclosure Agreement. In the event that any party or intervenor to whom the Protected Materials are disclosed ceases to be engaged in Petition 980, access to the Protected Materials by that person shall be terminated. Even if no longer engaged in Petition 980, every party or intervenor who has executed a Non-Disclosure Agreement shall continue to be bound by the provisions of this Protective Order.
12. If the Protected Materials are disclosed to any person other than in the manner authorized by this Protective Order, the party or intervenor responsible for such disclosure shall immediately upon learning of such disclosure inform BNE of all pertinent facts relating to such disclosure and shall make every effort to prevent disclosure by each unauthorized recipient of such information.
13. The Protected Materials are made a part of the record in this proceeding and shall remain in the possession of the Council.

CONNECTICUT SITING COUNCIL

By:


Daniel F. Caruso
Chairman

Date:

2/24/11

NON-DISCLOSURE AGREEMENT AND AGREEMENT TO BE BOUND BY THE
TERMS OF THE PROTECTIVE ORDER

The undersigned hereby acknowledges that he or she has received and read a copy of the Protective Order granted by the Connecticut Siting Council in Petition 980 in connection with the Motion for Protective Order and Motion to File Under Seal filed by BNE Energy, Inc. on February 16, 2011, and hereby agrees to abide by the terms thereof in exchange for being given access to the confidential and proprietary information filed by or through BNE Energy, Inc. that is protected from disclosure under the terms of the Protective Order.

Name: Daniel F. Caruso

Title: Chairman

Representing: Connecticut Siting Council

Address: Ten Franklin Square

New Britain, CT 06051

Phone Number: (860) 827-2935

Signature:  _____

Date: 02/24/2011