

**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 29, 2011**

**OBJECTION TO SUBPOENA RE:  
DR. MICHAEL KLEMENS**

BNE Energy, Inc. (“BNE”) hereby objects to the Subpoena Duces Tecum issued by FairwindCT, Inc. (“Fairwind”) to Michael W. Klemens, PhD. dated March 25, 2011. The subpoena is directed to a non-participant in this proceeding, who is not on Fairwind’s witness list, which was finalized on February 16, 2011. In addition, Fairwind has not pre-filed any testimony on behalf of Dr. Klemens, as is required by the hearing procedures in this proceeding. Finally, Fairwind’s allotted time for presenting its case has already reached its end pursuant to the hearing schedule set out by the Siting Council in accordance with its statutory mandates. Therefore, Fairwind’s opportunity to present witnesses has passed, this request is untimely and should be denied.

Dr. Klemens is not a participant in this proceeding. Pursuant to the schedule set out by the Siting Council in its Hearing Notice dated January 21, 2011, Fairwind, like all other parties to this proceeding, was required to submit its witness list and pre-filed testimony for all witnesses. The purpose for this deadline is for the parties to prepare for cross-examination and to prepare rebuttal testimony, if necessary. Fairwind’s witness list did not include Dr. Klemens. Fairwind did not supply pre-filed testimony for Dr. Klemens. In fact, no other party to this proceeding included Dr. Klemens on its witness list or provided pre-filed testimony for Dr.

Klemens. The untimely nature of this subpoena unduly prejudices BNE, which has already presented its case to the Siting Council. BNE has spent valuable resources reviewing extensive and largely irrelevant testimony filed by Fairwind. Fairwind has provided no reason why the Siting Council should depart from its standard procedures and allow a new witness to come into the proceeding now.

Furthermore, Fairwind's allotted time in which to present its case is now over. Fairwind presented its entire case during the evidentiary hearing before the Council on March 15, 2011. The final date for evidentiary hearings in this proceeding, March 31, 2011, is reserved for the Council and other parties/intervenors' cases. The hearing schedule does not permit rebuttal time for Fairwind. Given that it has already utilized its time allotted by the hearing schedule, Fairwind should not now be allowed to trample upon the rights of other parties/intervenors – and indeed, even the Council – by occupying more time. The Council is under strict statutory time limits, and the hearing schedule is based upon the same. Fairwind has provided no rationale to compel the Council to depart from the hearing schedule and its statutory mandates to allow Fairwind to put on more evidence.

For the foregoing reasons, BNE objects to the Subpoenas Duces Tecum issued by Fairwind to Dr. Klemens.

Respectfully Submitted,  
BNE ENERGY, INC.

By: /s/ Carrie Larson  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this day a copy of the foregoing was delivered by U.S. Mail, first class postage prepaid, to all parties and intervenors of record as follows:

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