

**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 18, 2011

**MOTION TO COMPEL INTERROGATORY RESPONSES,
OR IN THE ALTERNATIVE TO STRIKE**

FairwindCT, Inc. (“FairwindCT”) hereby requests that the Council compel BNE to respond to fully to certain interrogatory questions to which it has objected on the grounds of relevance. In the alternative, FairwindCT requests that the Council strike BNE’s pre-filed testimony the sections of BNE’s petition that concern the subject matter BNE claims is not relevant to this proceeding.

1. FairwindCT issued its first and only set of interrogatories to BNE on February 9, 2011, the final date for exchanging interrogatories and the day after FairwindCT was granted party status in this proceeding.
2. In those interrogatories, FairwindCT asked the following questions:
 - Q2. Please provide the approximate date on which you or your representatives first informed members of the Siting Council and/or its staff that you would be seeking the Council’s approval for this project.
 - Q9. How many wind turbine projects in the Northeast that are presently operating have annual capacity factors of approximately 30 percent?

Please identify those projects by location, number of turbines and type of turbines (size and model).

Q10. How many wind turbine projects in the United States that are presently operating have annual capacity factors of approximately 30 percent?

Please identify those projects by location, number of turbines and type of turbines (size and model).

Q11. On February 3, 2011, Mr. Corey testified at a hearing before the Energy and Technology Committee of the Connecticut legislature and promised to provide a written submission detailing the “specific” number of jobs that will be created by Wind Prospect. Please provide the specific number of jobs that will be created.

3. Save Prospect Corp issued its first set of interrogatories to BNE on January 21, 2011. In those interrogatories, Save Prospect Corp asked the following questions:

Q1. Identify BNE’s sources of funding, stating the dates and amounts of all loans, grants or other funding.

Q10. Identify and provide copies of any correspondence with GE, Vesta, or any other manufacturer of turbines.

Q12. Identify and describe all of the claimed project benefits for the Town of Prospect. With respect to property tax revenues, provide the basis for the calculation of the property tax revenue to be paid to Prospect, the projected tax payment schedule, the projected revenues schedule of the facility, and a useful life estimate for the facility. Is the projected tax

payments are based on a projected valuation of the completed site, provide the basis for such valuation, including whether it is based upon any professional evaluation or appraisal, the method of appraisal and the data considered by the appraiser.


4. FairwindCT would have included these questions in its interrogatories to BNE had Save Prospect not already asked them of BNE.
5. The interrogatory questions are all based on information that BNE included in its petition for declaratory ruling. As such, the subject matter is relevant to this proceeding. FairwindCT asks that the Council compel BNE to respond to the interrogatory questions to which it objected on relevance grounds. Moreover, given that the evidentiary hearing in this proceeding is scheduled to begin on February 24, 2011, FairwindCT asks that the Council order BNE to respond to those questions within two business days of the issuance of such an order.
6. In the alternative, FairwindCT asks that the Council strike all testimony submitted by BNE regarding the subject matter BNE claims is irrelevant to this proceeding. Although BNE now claims that information regarding sources of funding, claimed efficiency, claimed local benefits, claimed job creation, communications with the Council and with turbine manufacturers is irrelevant to the Council's decision, BNE not only discussed all of these issues in its petition, but it has also submitted prefiled testimony on all of these subjects.
7. For example, Paul Corey testifies regarding the alleged benefits to the community. Joel Rinebold testifies at great length about the tax benefits and job

creation that will allegedly result from approval of Wind Prospect. BNE's petition includes sections entitled "Community Relations," "Development Strategy and Schedule," "Service Life and Capacity Factor" and "Project Benefits."

8. BNE should not be permitted to refuse to answer questions posed by the parties on topics such as funding sources, efficiency and local benefits and then be permitted to offer testimony on such subjects and include information on these subjects in its petition for declaratory ruling. If these subjects are irrelevant to these proceedings such that BNE cannot be compelled to respond to interrogatories concerning these subjects, any testimony on these subjects should be stricken, as should any portions of BNE's petition concerning these subjects.

WHEREFORE, FairwindCT asks that the Council issue an order compelling BNE to respond to Questions 2, 9, 10 and 11 of FairwindCT's first set of interrogatories to BNE and Questions 1, 10 and 12 of Save Prospect's first set of interrogatories to BNE. In the alternative, BNE asks that the Council issue an order striking the testimony of Joel Rinebold and portions of the testimony of Paul Corey, prohibiting any testimony on the subject of BNE's funding sources, communications with GE and other turbine manufacturers, communications with the Siting Council prior to the submission of this petition, claimed efficiency rates of Wind Prospect, and claimed local benefits of Wind Prospect, including job creation.

By:



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PROPOSED ORDER

Whereas, the evidentiary hearing in this matter is scheduled to begin on February 24, 2011;

Whereas, BNE objected to certain interrogatories filed by FairwindCT, Inc. and Save Prospect Corp;

Whereas, the interrogatories request information relevant to this proceeding;

IT IS HEREBY ORDERED that BNE respond to Questions 2, 9, 10 and 11 of FairwindCT’s first set of interrogatories to BNE and Questions 1, 10 and 12 of Save Prospect’s first set of interrogatories to BNE. It is further ordered that BNE supply its answers to these interrogatories within two business days of the date of this Order.

[OR, IN THE ALTERNATIVE]

IT IS HEREBY ORDERED that no testimony shall be heard in this proceeding on the subject of BNE’s funding sources, communications with GE and other turbine manufacturers, communications with the Siting Council prior to the submission of this petition, claimed efficiency rates of Wind Prospect, and claimed local benefits of Wind Prospect, including job creation. Accordingly, **IT IS HEREBY FURTHER ORDERED** that the prefiled testimony of Joel Rinebold and Question and Answer No. 4 of the testimony of Paul Corey are stricken.

IT IS HEREBY FURTHER ORDERED that the sections of BNE's petition for declaratory ruling entitled "Community Relations," "Development Strategy and Schedule," "Service Life and Capacity Factor" and "Project Benefits" are stricken.

SO ORDERED:

CONNECTICUT SITING COUNCIL

By: _____
Daniel F. Caruso, Chairman

Date: _____

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 18th 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
Eric Bibler
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Emily Giangruto