STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Petition of BNE Energy Inc. for a   Petition No. 980
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")   February 23, 2011

FAIRWINDCT, INC.'S RESPONSE REGARDING PETITIONER BNE ENERGY INC.'S MOTION FOR PROTECTIVE ORDER AND MOTION TO FILE UNDER SEAL

FairwindCT, Inc. ("FairwindCT"), hereby responds to petitioner BNE Energy Inc.'s

("BNE") motion for protective order and motion to file under seal and its related proposed

protective order, dated February 16, 2011. Although FairwindCT does not concede that the

information BNE seeks to protect from disclosure is, in fact, confidential and proprietary,

FairwindCT does not object in principle to the entry of such an order, provided that certain

conditions outlined in this response are met.

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.   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 raised no objection but indicated that the information requested was

        confidential and being filed with the Council pursuant to a motion for protective

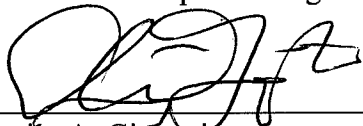   order and to file under seal.

3. The relevant interrogatory questions and answers are the following:

Q8. Please provide a copy of the Mechanical Loads Assessment conducted by GE and described in your responses to questions 1, 2 and 6 of the Council's first set of interrogatories, dated February 3, 2011.

A8. The information requested is confidential and proprietary. Therefore, BNE is filing the MLA separate to these responses and subject to a protective order and under seal with the Council.

Q12. On February 3, 2011, Mr. Corey testified at a hearing before the Energy and Technology Committee of the Connecticut legislature and stated that GE has "lots of rules" regarding setbacks that BNE has followed. Please provide copies of those rules.

A12. The information requested is confidential and proprietary. Therefore, BNE is filing GE information separate to these responses and subject to a protective order and under seal with the Council.

Q13. The "Wind Assessment" included in the petition is only a summary of data collected from the meteorological tower on the Site. Please provide the raw data upon which the summary assessment relies, in native electronic format.

A13. The information requested is confidential and proprietary. Therefore, BNE is filing the raw wind data separate to these responses and subject to a protective order and under seal with the Council.

4. In accordance with its responses, on February 16, 2011, BNE filed its motion for protective order and to file under seal, an affidavit in support of its motion by Paul Corey and a proposed protective order.

5. In its motion, BNE claims that the material requested, namely, the Mechanical Load Assessment, GE's rules regarding setbacks and the raw wind data, is confidential and proprietary business data and "could also be characterized as Critical Energy Infrastructure Information ('CEEI')." BNE asked the Council to issue an order that the material request may not be "subject to unrestricted, general public disclosure."

6. FairwindCT does not agree with BNE's claims that the material requested is, in fact, confidential and proprietary or CEEI. In the interest of expediting this proceeding, however, FairwindCT does not object in principle to the proposed protective order, provided that the conditions outlined below are attached to such an order.

7. FairwindCT requests that the material requested be provided by BNE to all parties, counsel and experts who agree to the terms of the proposed protective order. In the alternative, FairwindCT is amenable to an order that the information may be disclosed only to counsel and experts who agree to the terms of the proposed protective order, with the understanding that such agreements permit disclosure to any staff who may assist those individuals in their analyses.

8.   FairwindCT further requests that the Council act swiftly on BNE's motion and

order that BNE provide the information to the authorized recipients no more than

two business days from the Council's entry of an order regarding BNE's motion.

9.   FairwindCT further requests that the Council order BNE to make its witnesses

available for cross examination concerning the material requested at a later date in

the evidentiary proceeding. That condition will permit all parties to have an

opportunity to analyze the material requested and cross examine BNE's witnesses

on the contents of the material requested. Without an order to this effect, the

parties may receive the requested material after relevant witnesses have already

testified, thereby preventing FairwindCT and other parties from having a

reasonable opportunity to cross examine the witnesses about the requested

material.

WHEREFORE, FairwindCT asks that the Council act swiftly to grant BNE's motion for

protective order but impose reasonable conditions on its order, including a requirement that BNE

provide the requested material to FairwindCT's counsel within two business days of the

Council's order and a requirement that BNE make all of its witnesses available for cross

examination on the material requested at a later date in this proceeding.
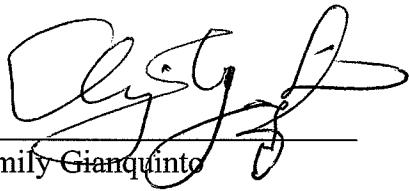
By: _____

Emily A. Gianquinto
Nicholas J. Harding
Reid and Riege, P.C.
One Financial Plaza, 21st Floor
Hartford, CT 06103
Tel. (860) 278-1150
Fax. (860) 240-1002

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 23rd 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
Andrew W. Lord
Cindy Gaudino

_____
Emily Gianquinto