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 23, 2011

MOTION TO STRIKE CERTAIN EVIDENCE FROM THE RECORD

FairwindCT, Inc. ("FairwindCT"), hereby requests that the Council strike BNE's prefiled testimony, exhibits, administratively noticed documents and sections of BNE's petition that concern the subject matter the Council has determined is not relevant to the final decision to be rendered by the Council in this matter.

1. On February 22, 2011, the Council issued a notice addressed to the parties and intervenors (the "Notice"), which outlines the procedure governing the evidentiary hearing regarding this petition. That evidentiary hearing is scheduled to begin on February 24, 2011.

2. The Notice limits the substance of the cross examination to three general topics, namely, public health and safety, environmental impacts and facility operation. The Notice purports to do so on the grounds that only these topics "are relevant to the final decision to be rendered by the Council in this matter."

3. Although the Council now apparently considers only evidence regarding these three topics to be relevant to its final decision, BNE has submitted evidence on

numerous other topics, in its petition, its interrogatory responses, its prefiled testimony and its proposed exhibits and documents to be administratively noticed.

4. For example, BNE has submitted evidence regarding sources of funding, claimed efficiency, claimed local benefits, claimed job creation, communications with the Council and with turbine manufacturers and the State of Connecticut's Renewable Portfolio Standards. Paul Corey's prefiled testimony concerns 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." Some of BNE's proposed exhibits and administratively noticed documents concern the same topics.

5. Inclusion of this apparently irrelevant evidence in the record is unnecessary, given the Council's decision on relevance, and only serves to clog the docket. Any evidence for which cross examination is not permitted must be removed from the record to prevent the inadvertent consideration of such unexamined evidence.

6. Moreover, inclusion of this evidence in the record will be prejudicial to FairwindCT and the other parties opposing this petition, since they will not be permitted to cross examine BNE's witnesses on these subjects.

7. Therefore, all prefiled testimony on these subjects should be stricken, as should any portions of BNE's petition and any other parts of the record concerning these subjects.

WHEREFORE, FairwindCT asks that the Council issue an order striking the prefiled testimony of Joel Rinebold and portions of the testimony of Paul Corey and striking all evidence on topics that do not fall within the categories of public health and safety, environmental impacts and facility operation.

By: _____

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PROPOSED ORDER

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

Whereas, on February 22, 2011, the Council issued a notice to all parties and intervenors (the "Notice") ordering that the substance of cross examination of all witnesses be limited to three topics, namely, public health and safety, environmental impacts and facility operation;

Whereas, the Notice limits the substance of cross examination because only public health and safety, environmental impacts and facility operation are relevant to the final decision to be rendered by the Council in this matter;

Whereas, the Council desires to make the record consistent with the Notice and the Council's determination of the relevant topics;

IT IS HEREBY ORDERED that no evidence shall be considered in this proceeding on the subjects outside of the categories of public health and safety, environmental impacts and facility operation, as described in further detail in the notice issued by the Council dated February 22, 2011. 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:

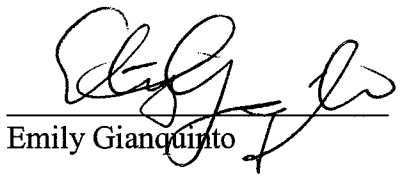
CONNECTICUT SITING COUNCIL

By: _____ Date: _____
Daniel F. Caruso, Chairman

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