

**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 14, 2011**

**MOTION TO STRIKE SUPPLEMENTAL PRE-FILED TESTIMONY  
OF TIMOTHY REILLY**

BNE Energy, Inc. (“BNE”) hereby moves to strike the supplemental pre-filed testimony of Timothy Reilly. Save Prospect Corp. (“SPC”) has inappropriately submitted the supplemental pre-filed testimony of Timothy Reilly in direct contravention of the scheduling order and pre-filing requirements set forth in this proceeding. Mr. Reilly’s supplemental testimony should be struck from the record on this basis alone. Turning to the substance of Mr. Reilly’s supplemental testimony, it is clearly an attempt to improperly introduce hearsay and irrelevant material to the Siting Council. Further, as the Siting Council has indicated numerous times, the purpose of the Siting Council proceeding is to ensure that the Project meets Connecticut’s air and water quality standards as promulgated by the Connecticut Department of Environmental Protection. *See* Conn. Gen. Stat. §16-50k(a). Therefore, since the testimony addresses irrelevant issues and contains improper hearsay, it should be struck from the record in its entirety.

The purpose of the additional pre-filing deadline in this proceeding, which permitted supplemental testimony, is to respond, in a rebuttal format, to the testimony or evidence of another party submitted on or after the original pre-filing deadline of February 16, 2011. Mr. Reilly’s supplemental testimony does not address any new testimony or exhibits submitted since

the original pre-filing deadline of February 16, 2011. As such, it is improper pursuant to the Council's pre-filing requirements. In addition, the testimony includes additional proposed exhibits, none of which are verifiable by the proposed witness and therefore should not be included in the record in this proceeding

Turning to the substance of the testimony, Mr. Reilly's supplemental testimony is riddled with improper hearsay testimony and fails to be relevant to this proceeding. Amazingly, Mr. Reilly attempts to speak on behalf of the Governor of the State of Connecticut. This is clearly inappropriate hearsay. If the Council is going to allow this type of testimony (which it should not), then it should also take note of comments by Governor Malloy in support of renewable energy projects like the one currently pending in this proceeding, an example of which are attached hereto as Exhibit 1.

Mr. Reilly's statements are nothing more than an attempt to introduce regulations and statutes from other states and countries and newspaper articles about wind turbines in other states for the sole purpose of trying to influence the Siting Council to view wind turbines negatively. These materials constitute improper hearsay. The information submitted by Mr. Reilly cannot be examined by the Siting Council or BNE to determine its accuracy, relevancy or probative value. The very essence of the hearsay rules would be violated by allowing this material into the record.

In addition, Mr. Reilly's testimony fails to address the fact that Connecticut statutory requirements require that the Project meet and comply with Connecticut air and water quality standards as promulgated by the Connecticut Department of Environmental Protection. *See* Conn. Gen. Stat. §16-50k(a). The testimony includes information from Cape Cod, Massachusetts, Vermont, Maine, Wisconsin, Ohio, New York and other parts of the United States, as well as England. None of the exhibits or testimony address the issue before the Siting

Council. As such, Mr. Reilly's pre-filed testimony is irrelevant to the Siting Council's determination as to whether the Petition complies with Connecticut statutory requirements.

For the foregoing reasons, the supplemental pre-filed testimony of Mr. Reilly should be struck in its entirety.

Respectfully Submitted,  
BNE ENERGY, INC.

By: /s/ Carrie Larson  
Carrie L. Larson  
Pullman & Comley, LLC  
90 State House Square  
Hartford, CT 06103-3702  
Juris No. 409177  
860-424-4300 (p)  
860-424-4370 (f)  
Its Attorneys

## **EXHIBIT 1**

2/9/2011

WATR “Talk of the Town”

Larry Rifkin Question:

Do you feel there should a moratorium and regulations be written that are statewide in terms of setbacks and so forth before anything is sited or would you encourage the CT Siting Council just to do its work?

Malloy:

I think there *are* regulations. If we’re talking about a delay for regulation purposes that’s one thing. If we’re talking about simply trying to kill wind turbines in the state of Connecticut then we should admit that’s what we’re trying to do: we’re trying to do away with wind turbines as a way to generate electricity. But let’s not parse words here – it’s one or the other and I don’t think really the design is to talk about regulations; I think the design is to end wind turbines. And I think that’s the context in which to have the debate, not pretending that it’s about regulations. And by the way, if the legislature decides that they want to kill wind turbines, then they should stand up and affirmatively vote that but not try to do it by saying well we just need regulations; we’ve been regulated to death in this state.

**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:

Mayor Robert Chatfield  
Town Office Building  
36 Center Street  
Prospect, CT 06712-1699

Jeffrey Tinley  
Tinley, Nastri, Renahan & Dost LLP  
60 North Main Street  
Second Floor  
Waterbury, CT 06702

Thomas J. Donohue  
Killian & Donohue, LLC  
363 Main Street  
Hartford, CT 06106

John R. Morissette (electronic format only)  
Manager-Transmission Siting and Permitting  
The Connecticut Light & Power Company  
P.O. Box 270  
Hartford, CT 06141-0270

Christopher R. Bernard (electronic format only)  
Manager-Regulatory Policy (Transmission)  
The Connecticut Light & Power Company  
P.O. Box 270  
Hartford, CT 06141-0270

Joaquina Borges King (electronic format only)  
Senior Counsel  
The Connecticut Light & Power Company  
P.O. Box 270  
Hartford, CT 06141-0270

Nicholas J. Harding  
Emily A. Gianquinto  
Reid and Riege, P.C.  
One Financial Plaza  
Hartford, CT 06103

Andrew Lord  
Murtha Cullina LLP  
CityPlace I  
185 Asylum Street, 29th Floor  
Hartford, CT 06103

Eric Bibler  
31 Old Hyde Road  
Weston, CT 06883

/s/ Carrie L. Larson

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