

**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

March 29, 2011

FAIRWINDCT, INC.’S MOTION FOR COUNCIL TO ISSUE SUBPOENA

FairwindCT, Inc. (“FairwindCT”), hereby submits the within motion requesting that the Siting Council issue a subpoena pursuant to Connecticut General Statutes § 4-177b, directing Michael Guski, Principal of Epsilon Associates (“Epsilon”), to testify at the March 31, 2011, evidentiary hearing regarding any analysis, advice, or assistance provided by Epsilon to the Council in considering the above-captioned petition. FairwindCT further moves the Council to instruct Guski to bring with him any and all documents from the Epsilon file relating to the above-captioned petition. In support of this motion, FairwindCT states the following:

1. According to multiple sources – including a letter dated March 14, 2011, from the Department of Environmental Protection, an article dated March 26, 2011, in the Waterbury Republican-American, and the inclusion of an Epsilon employee on the distribution list for this petition – the Council has employed the assistance of Epsilon in determining the propriety of the proposed wind turbines subject to this petition.
2. On February 24, 2011, an attorney for FairwindCT submitted a request pursuant to the Freedom of Information Act, Connecticut General Statutes § 1-210(a),

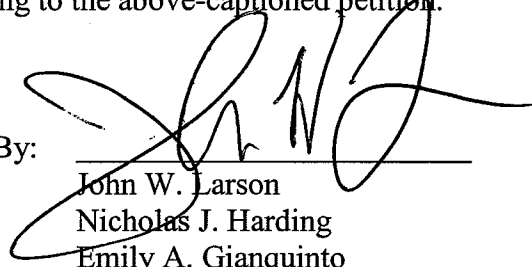
seeking a copy of the executed contract between the Council and Epsilon. On February 28, 2011, the Council provided a copy of the contract.

3. Pursuant to Section Four of the contract, Epsilon agreed to be “available to attend, cross-examine, and testify at public hearings as an expert witness, as necessary.”
4. Pursuant to General Statutes § 4-177b, “[i]n a contested case, the presiding officer may . . . subpoena witnesses and require the production of records, physical evidence, papers and documents to any hearing held in the case.”
5. Accordingly, the Siting Council has the authority to compel Guski to provide testimony regarding Epsilon’s work on this petition pursuant to Connecticut General Statutes § 4-177b and the contract between the Council and Epsilon. On the other hand, FairwindCT has no procedural mechanism by which it can compel Guski, or Epsilon generally, to appear to testify at the evidentiary hearing in light of the fact that Epsilon is an out-of-state entity.
6. The parties to this petition are entitled to review and, if necessary, cross-examine Guski regarding the work performed by Epsilon for the Council and any conclusions reached and recommendations made by Epsilon with respect to siting BNE’s proposed wind turbines. Such evidence, which would then be produced as part of the record in this petition, is necessary for the Council’s full and fair consideration of BNE’s proposal.

WHEREFORE, FairwindCT respectfully requests that the Siting Council issue a subpoena pursuant to Section 4-177b of the General Statutes, directed to Michael Guski to testify

at the March 31, 2011, evidentiary hearing regarding any analysis, advice, or assistance provided by Epsilon to the Council in considering the above-captioned petition and to produce any and all documents from the Epsilon file relating to the above-captioned petition.

By: _____

A large, stylized handwritten signature in black ink, appearing to read 'JW Larson', is written over a horizontal line.

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

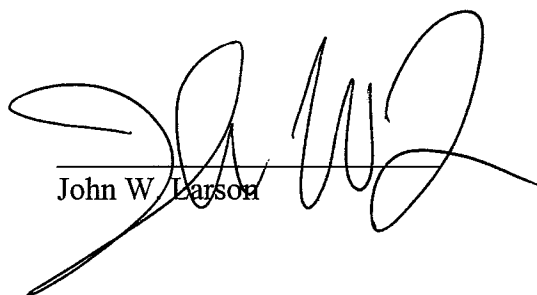
CERTIFICATION

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 29th day of March, 2011:

Carrie L. Larson
Paul Corey
Jeffrey J. Tinley
Hon. Robert J. Chatfield
Thomas J. Donohue, Jr.
Eric Bibler
Andrew W. Lord
Cindy Gaudino

and sent via e-mail only to:

John R. Morissette
Christopher R. Bernard
Joaquina Borges King



John W. Larson