

**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

February 23, 2011

**PETITIONER’S OBJECTION TO
FAIRWINDCT, INC.’S MOTION TO COMPEL**

The petitioner, BNE Energy Inc. (“BNE”), submits this objection to FairwindCT, Inc.’s (“Fairwind”) motion to compel filed February 18, 2011. Fairwind has filed a motion to compel responses to interrogatories that both Fairwind and Save Prospect Corp. served on BNE or, in the alternative, Fairwind moves to strike economic information submitted by BNE thus far in the record. As has been noted throughout BNE’s filings, BNE recognizes that economic information—both positive and negative—are outside the Council’s general scope of jurisdiction and specific jurisdiction for review of this petition. *See* Conn. Gen. Stat. §§ 16-50g and 16-50k(a). BNE objects to Fairwind’s motion to compel because the objections BNE raised to the specified interrogatories are all appropriate. Assuming all parties and intervenors agree to strike all economic information submitted, including testimony submitted by Save Prospect Corp. (“SPC”) concerning capacity factors and all information and testimony submitted concerning purported impacts to property values, BNE is willing to strike any testimony BNE has submitted concerning the economic benefits of the project.

Further, BNE states the following:

1. This petition was filed on November 17, 2010, more than three months ago.

2. The Council set a pre-filing deadline of February 16, 2011 for this proceeding.

3. On February 9, 2011, both Fairwind and SPC issued voluminous interrogatories to BNE. SPC had also previously issued a set of interrogatories to BNE with SPC's interrogatories totaling over one hundred.

4. Despite the lateness of the filing of these interrogatories coupled with the volume, BNE provided complete responses to all relevant interrogatories by the Council's pre-filing deadline.

5. Both Fairwind and Save Prospect Corp. issued numerous interrogatories that are entirely irrelevant to this proceeding. For example, SPC asked BNE its sources of funding and the date its website was started. Clearly, these requests are not germane to this proceeding.

6. SPC specifically asked the interrogatory to "identify and describe all of the claimed project benefits for the Town of Prospect." The interrogatory included requests for tax benefit information. BNE appropriately objected, claiming this information is outside the Council's jurisdiction. Notwithstanding, BNE endeavored to provide a response and did, in fact, provide a response to this irrelevant interrogatory.

7. Fairwind has now filed a motion to compel responses to numerous interrogatories. BNE's objection to each of the interrogatories listed by Fairwind are appropriate. Therefore, BNE should not be compelled to provide responses.

8. Remarkably, after Fairwind and SPC posed interrogatories concerning economic benefits, Fairwind now, in the alternative, moves to strike BNE's responses from the record claiming that such information is outside the Council's jurisdiction. Certainly, it

is not appropriate for Fairwind and SPC to issue the interrogatories and now move to strike the responses.

9. Notwithstanding, BNE has no objection to striking its responses, which were all provided subject to BNE's objection, from the record. However, BNE will only agree to strike these responses and information only if all other parties and intervenors agree to strike all economic information submitted to the record as proposed exhibits and testimony. For example, SPC has submitted the pre-filed testimony of Mr. McCann, an Illinois real property appraiser. In addition, SPC has submitted articles concerning impacts to property values. This testimony, likewise, should not be included in the record of this proceeding since it, too, is irrelevant to this proceeding since economic impacts are outside the Council's scope of review and general grant of jurisdiction.

10. Finally, Fairwind's proposed order attached to its motion should not be considered to the extent it pertains to striking items from the record. Importantly, Fairwind's proposed order moves to strike Mr. Rinebold's testimony in its entirety. Mr. Rinebold's testimony involves topics other than economic impacts and therefore should not be struck in its entirety.

WHEREFORE, BNE objects to Fairwind's motion to compel. In the alternative, BNE has no objection to striking information concerning economic impacts from the record but only if all parties and intervenors agree to withdraw all testimony and proposed exhibits that concern economic impacts including but not limited to information pertaining to impacts to property values.

Respectfully Submitted,

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ORDER

Whereas, this petition was filed with the Connecticut Siting Council on November 17, 2011;

Whereas, various parties and intervenors have submitted information concerning economic impacts of the proposed Wind Prospect project;

Whereas, the Council recognizes that economic impacts, both positive and negative, are outside the scope of the Council’s jurisdiction pursuant to Conn. Gen. Stat. § 16-50g and specific scope of review of this proceeding pursuant to Conn. Gen. Stat. § 16-50k (a);

IT IS HEREBY ORDERED:

That no testimony or evidence shall be submitted or included in the record of this proceeding pertaining to economic impacts. This includes information pertaining to positive economic benefits (including job creation, payment of taxes) and negative economic impacts (including impacts to property values). The following proposed exhibits and testimony will be excluded from the record:

1. Question and Answer 4 of the pre-filed testimony of Paul Corey filed by petitioner BNE Energy Inc.;
2. Question and Answers 4, 5 and 8-11 of the pre-filed testimony of Joel Rinebold, filed by BNE Energy Inc.;
3. Pre-filed testimony of Michael McCann filed by Save Prospect Corp.;
4. Pre-filed testimony of David Pressman filed by Save Prospect Corp.;
5. Proposed exhibits: 36, 37, 39, 41;
6. Pre-filed testimony of Eric Bibler filed by Save Prospect Corp., question and answer 4,
7. Pre-filed testimony of Michael Brunetti filed by Save Prospect Corp., question and answer 6;
8. Pre-filed testimony of Thomas Casella filed by Save Prospect Corp., question and answer 17 and 18;
9. Pre-filed testimony of Annie Hart Cool filed by Save Prospect Corp., question and answer 12, 17 and 22;

10. Pre-filed testimony of Mark Cool filed by Save Prospect Corp., question and answer 18;
11. Pre-filed testimony of Karen Dunn filed by Save Prospect Corp., question and answer 5 and 6;
12. Pre-filed testimony of Calvin Goodwin filed by Save Prospect Corp., question and answer 5;
13. Pre-filed testimony of Katie Lanouette filed by Save Prospect Corp., question and answer 5;
14. Pre-filed testimony of Cheryl Lindgren filed by Save Prospect Corp., question and answer 14;
15. Pre-filed testimony of Joseph Lukeski filed by Save Prospect Corp.; question and answer 5;
16. Pre-filed testimony of Timothy Reilly filed by Save Prospect Corp., question and answer 15;
17. Pre-filed testimony of Josh Walker filed by Save Prospect Corp., question and answer 4 and 7;
18. Pre-filed testimony of Terri Yachtis filed by Save Prospect Corp., question and answer 6; and
19. Pre-filed testimony of John Lamontagne filed by John Lamontagne; question and answer 3 and 13.

Daniel Caruso, Chairman

Certification

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

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