

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**Petition of BNE Energy Inc. for a  
Declaratory Ruling for the Location,  
Construction and Operation of a 4.8 MW  
Wind Renewable Generating Project on  
Flagg Hill Road in Colebrook,  
Connecticut (“Wind Colebrook South”)**

**Petition No. 983**

**May 10, 2011**

**OBJECTION TO MOTION TO STRIKE  
SUPPLEMENTAL PRE-FILED TESTIMONY OF GLENN CHALDER**

FairwindCT, Inc., Susan Wagner and Stella and Michael Somers (the “Grouped Parties”), hereby object to the Motion to Strike Supplement Pre-Filed Testimony of Glenn Chalder, dated May 10, 2011, filed by Petitioner, BNE Energy Inc. (“BNE”). In its motion, BNE asks that the Council strike Mr. Chalder’s testimony as untimely and “baseless and misleading” because Mr. Chalder’s supplemental testimony was filed after the close of the evidentiary hearings in this proceeding and provides a comprehensive evaluation of the visual impacts that will be caused by BNE’s proposed turbines that are subject to this petition. Contrary to BNE’s claims, Mr. Chalder’s testimony provides an accurate assessment of the visual impacts of BNE’s petition and properly can be considered by the Council in its adjudication of such petition.

In support of this Objection, the Grouped Parties state the following:

1. On May 4, 2011, Mr. Chalder submitted supplemental pre-filed testimony in this matter. In his testimony, Mr. Chalder provided a visual simulation of all of BNE’s proposed turbines and further explained the methodology used in composing that simulation.

2. On May 10, 2011, BNE filed its motion to strike Mr. Chalder's testimony from the record. In its motion, BNE argues that Mr. Chalder's testimony was filed after the final pre-filing deadline in this proceeding and that Mr. Chalder's testimony is misleading in that it refers to BNE's seven proposed turbines and that, apparently, Mr. Chalder's testimony should be stricken on that basis.
3. Because BNE's arguments are meritless, the Council should deny BNE's motion.
4. First, in their cover letter to the Council accompanying Mr. Chalder's supplemental pre-filed testimony, the Grouped Parties specifically stated their intent for the same to be considered a late file exhibit. The timing of filing of the supplemental pre-field testimony of Mr. Chalder would not justify BNE's request for the Council to strike the same. Instead, the Council should consider Mr. Chalder's supplemental pre-filed testimony in the same way the Council considers other late-filed exhibits in this proceeding, and assign it the same weight the Council gives to other late-filed exhibits, including BNE's late-filed exhibits dated May 5, 2011.
5. Further, notwithstanding BNE's efforts to compartmentalize the effects of both pending Colebrook petitions, the fact remains that BNE has proposed two sets of industrial wind turbines within half a mile of one another. Therefore, even though this specific petition governs three proposed wind turbines at the Flagg Hill Road site, the visual impacts that will be felt as a result of those three turbines cannot logically be taken in isolation. It is only the fault of the petitioner that the proposed turbines from both of its petitions are visible from Rock Hall, and

Mr. Chalder's testimony merely puts the proposed wind turbines subject to this petition into the greater context of what BNE proposes to do to Colebrook overall. BNE should not be permitted to stifle evidence demonstrating this fact simply because it is inconvenient and harmful to its case, and the Council should therefore deny BNE's motion.

6. Further, the need to consider cumulative effects is evident from the statutory scheme governing the Council's jurisdiction. For example, General Statutes § 16-50p, establishing procedures for certification decisions, specifically requires the Council to consider "[t]he nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities" (emphasis added). While the Grouped Parties recognize that this is not a certification proceeding, the principle is generally applicable: To the extent that the Council is considering environmental, including visual, effects of BNE's proposed turbines, it must do so in light of currently existing and proposed facilities. Moreover, pursuant to the Council's articulation in Petition No. 980 that specifically stated that the Council's decision "is governed by the criteria set forth under C.G.S. § 16-50p." (Petition No. 980, Motions Memo dated Apr.8, 2011.) BNE's alternative is nothing more than willful ignorance.

WHEREFORE, for the foregoing reasons, the Grouped Parties object to BNE's motion to strike Mr. Chalder's supplemental pre-filed testimony.

By: 

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**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 10th day of May, 2011:

Lee D. Hoffman  
Bonnie L. Heiple  
Paul Corey  
Thomas D. McKeon  
David M. Cusick  
Richard T. Roznoy  
David R. Lawrence and Jeannie Lemelin  
Walter Zima and Brandy L. Grant  
Eva Villanova

and sent via e-mail only to:

John R. Morissette  
Christopher R. Bernard  
Joaquina Borges King

  
Denise L. Myron