

**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

MOTION TO STRIKE
SUPPLEMENTAL PRE-FILED TESTIMONY OF GLENN CHALDER

Petitioner BNE Energy Inc. (“BNE”) hereby moves to strike the supplemental pre-filed testimony of Glenn Chalder, dated May 4, 2011, filed by FairwindCT, Inc., Stella and Michael Somers and Susan Wagner’s (collectively the “Grouped Parties”). The Grouped Parties yet again have failed to comply with the pre-filing schedule in this proceeding. Furthermore, the supplemental pre-filed testimony is baseless and misleading. As such, the supplemental testimony should be stricken from the record for the reasons set forth below:

1. This petition was filed on December 6, 2010.
2. The Council set a pre-filing deadline of March 15, 2011 for this proceeding, a deadline for the issuance of interrogatories of March 30, 2011, and a second pre-filing deadline of April 7, 2011.
3. Despite these clear deadlines, the Grouped Parties filed this supplemental testimony on May 4, 2011—almost an entire *month* after the final pre-filing deadline in this proceeding.
4. Not only was the testimony filed after the pre-filing deadline, it was also filed *nine days* after the close of the evidentiary hearings in this proceeding.

5. The submission of the Supplemental Testimony at this late date and in violation of the pre-filing schedule in place in this proceeding is highly prejudicial to BNE in that BNE will not have *any* opportunity to cross-examine Mr. Chalder or propound interrogatories to the Grouped Parties regarding this supplemental testimony.

6. In addition, the submission of the supplemental testimony at this late date and in violation of the pre-filing schedule in place in this proceeding is yet another example of the Grouped Parties' refusal to comply with Council procedure in this proceeding and yet another attempt to evade Council rulings. Specifically, the Grouped Parties have filed numerous motions to delay the hearings in this proceeding and re-arrange the hearing schedule. All of those baseless attempts have been denied. Rather than complying with the Council's rulings, the Grouped Parties choose to ignore the Council's decisions, and the late filing of this supplemental testimony is yet another example of this. The Grouped Parties' refusal not only to understand Council procedure but to comply with orders issued in this proceeding should not be condoned.

7. Furthermore, the supplemental testimony is baseless, incorrect and misleading. It refers to seven turbines and provides visual renderings depicting seven turbines. As the Council is well aware, BNE's petition in this proceeding proposes to construct three wind turbines at the Flagg Hill Road site. Despite the Grouped Parties' repeated efforts to consolidate this petition with other BNE petitions pending before the Council, the Council has rejected such efforts *twice*. The petitions are not consolidated. Items submitted into the record in each proceeding must therefore relate to the petition at issue—a concept that should be evident on its face, although this concept continues to elude the Grouped Parties. It is improper to submit documents into the record referring to seven turbines and will serve only to mislead and muddy the record.

The Grouped Parties' repeated attempts to consolidate BNE's petitions have failed. The Grouped Parties should not now be allowed to subvert the Council's rulings that the petitions should not be consolidated by submitting documents into the record which depict the petitions as consolidated. To allow Mr. Chalder's testimony would be to muddy the record with incorrect and misleading information.

8. The supplemental testimony is not only misleading in terms of number of turbines, but also in the rendering of individual turbines. Mr. Chalder's renderings depict turbines floating in mid-air and sited in the middle of the street. *See, e.g.* Exhibit 1, Figures 8, 5, E, F and G; Exhibit 2, Figures B-K; Exhibit 3, Figures B-G. Again, as the Council is well aware, and is clear from the record, BNE's petition in this proceeding proposes to construct three wind turbines at the Flagg Hill Road site. No turbine is proposed to be sited in the middle of any street and certainly no turbine will be floating in mid-air. This supplemental testimony is baseless and entirely misleading.

WHEREFORE, based on the foregoing and based on the Grouped Parties' continued failure and refusal to comply with the Council's schedule in this proceeding, the supplemental testimony should be stricken from the record.

For these reasons, BNE the pre-filed testimony of Glenn Chalder should be stricken from the record in this proceeding.

Respectfully Submitted,

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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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