

**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 6, 2011

**PETITIONER’S CLARIFICATION OF OBJECTION RE:
PARTICIPATION OF VICE-CHAIRMAN TAIT**

The petitioner, BNE Energy Inc. (“BNE”), submits this reply to FairwindCT, Inc. Stella and Michael Somers and Susan Wagner (the “Grouped Parties”) objection to BNE’s objection to the participation of Vice-Chairman Tait in this proceeding.

1. This petition was filed on December 6, 2010.
2. The Council apparently circulated a memorandum dated March 21, 2011 advising the parties and intervenors to this proceeding that Vice-Chairman Tait is the chairman of the Norfolk Inland Wetlands Commission. The Council apparently only circulated this memorandum in the petition 984 proceeding despite the fact that the property that is the subject of this proceeding abuts the Norfolk town line and the memorandum indicates that it was supposed to be circulated in this proceeding as well. Clearly the memorandum was circulated to inform the parties and intervenors to this proceeding of Vice-Chairman Tait’s conflict of interest due to his affiliation with the Norfolk Inland Wetlands Commission.

3. As was not clear from BNE’s May 4, 2011 objection, counsel for BNE has *never* received a copy of the March 21, 2011 memorandum in either this proceeding or petition 984. Counsel for BNE inquired with Council staff regarding the circulation of this memorandum on May 3, 2011 when the March 21, 2011 memorandum was first viewed on

the Council's website for the petition 984 proceeding only. Counsel for BNE was informed by Council staff that a singular e-mail was sent to out circulating this memorandum to the petition 984 service list and Council staff indicated that counsel for BNE was inadvertently not included on this e-mail. No such e-mail was circulated for petition 983.

4. While BNE is assured that its counsel's exclusion from the e-mail circulation of the March 21, 2011 memorandum was entirely accidental, it is disingenuous for the Council to indicate BNE's motion is moot based on untimeliness when the sole reason for any purported delay is due to the failure of the Council itself to notify counsel for BNE.

5. BNE seeks to further respond to the Grouped Parties' objection dated May 5, 2011 raised in the 984 proceeding, which BNE assumes will be filed in this proceeding as well. The Grouped Parties raise the conspiracy theorist argument that BNE's objection to Vice-Chairman Tait's participation is based on deliberations occurring in an entirely separate proceeding. Like virtually every other legal argument the Grouped Parties have raised in this proceeding, this argument is entirely unencumbered by any legal or factual support whatsoever. Contrary to the Grouped Parties' assertion, petition 980 is an entirely separate proceeding for this proceeding and no vote has occurred in that proceeding to date.

6. Furthermore, it is preposterous for the Grouped Parties' to object to BNE's objection to Vice-Chairman Tait's participation based on his actual affiliation with an opponent of the project that is the subject of this proceeding when the Grouped Parties themselves have sought to recuse Chairman Stein based on a single word included in a memorandum not even authored by Chairman Stein.

7. The Grouped Parties' unsupported argument cannot alleviate the fact that a potential conflict exists that requires Vice-Chairman Tait to recuse himself. As indicated in

BNE's May 4, 2011 objection, the property that is the subject of this proceeding is located within 2500 feet of the Town of Norfolk. Furthermore, by BNE's own admissions, the proposed project, if approved, will be visible from portions of Norfolk. Finally, Vice-Chairman Tait's affiliation with at least one opponent of this project makes it entirely necessary that he recuse himself from this proceeding. Chairman Stein has abstained from voting in this proceeding because of a single unintended word in a memorandum he did not even author pending a review of the unfounded motion for recusal of the Grouped Parties to avoid even the appearance of a potential conflict. Given Vice Chairman Tait's actual conflict in this proceeding acknowledged in the Council's March 21, 2011 memorandum that BNE did not receive due to an inadvertent omission by Council staff, Vice-Chairman Tait's recusal is warranted, justified and necessary.

WHEREFORE, BNE objects to Vice-Chairman Tait's participation in this proceeding and respectfully requests that he recuse himself from this matter.

Respectfully Submitted,

By: /s/ Carrie I. Larson
Attorney For BNE Energy Inc.
Carrie L. Larson, Esq.
clarson@pullcom.com
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Ph. (860) 424-4312
Fax (860) 424-4370

Certification

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

Richard Roznoy
11 School Street
P. O. Box 850
East Granby, CT 06026

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

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

Thomas D. McKeon
First Selectman
Town of Colebrook
P.O. Box 5
Colebrook, CT 06021

David R. Lawrence MD
Jeannie Lemelin LPN
30 Flagg Hill Road
Colebrook, CT 06021

David M. Cusick
Howd, Lavieri & Finch, LLP
682 Main Street
Winsted, CT 06098

Walter M. Zima
Brandy Grant
12B Greenwood Turnpike
Winsted, CT 06098

Eva Villanova
134 Forest Avenue
Winsted, CT 06098

/s/ Carrie L. Larson
Carrie L. Larson

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