

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

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

Petition Nos. 983 and 984

April 29, 2011

**OBJECTION TO PARTICIPATION MEMORANDUM
REGARDING CHAIRMAN STEIN**

FairwindCT, Inc., Susan Wagner and Stella and Michael Somers (the “Grouped Parties”) hereby object to the Participation Memorandum distributed by the Council to all parties and intervenors, dated April 27, 2011. The Grouped Parties object to Chairman Stein’s participation in the decision regarding these petitions pending the receipt of additional information from the Council with respect to the nature and scope of the Chairman’s site visits. The Grouped Parties further object to Chairman Stein’s participation in the decisions regarding these petitions based on language in the Participation Memorandum that indicates Chairman Stein has already decided to vote in favor of these petitions.

**I. The Grouped Parties Request Additional Information
Regarding the Nature and Scope of Chairman Stein’s Site Visits**

The Participation Memorandum states that Chairman Stein “read the transcripts, visited the sites and reviewed the records in these proceedings.”

No information has been provided regarding when the Chairman conducted each such site visit, with whom the visit was taken, and the duration of such visit. The proposed project sites are private property. Presumably, Chairman Stein was granted permission to visit the sites,

and it seems reasonable that he may have been accompanied on his site visits by one or more individuals.

The Grouped Parties therefore request that the Council provide the dates, approximate times and durations of Chairman Stein's site visits and also provide the names and affiliations of any individual(s) who accompanied him on his site visits. Until such information is provided, the Grouped Parties object to the Chairman's participation in the decisions regarding these petitions.

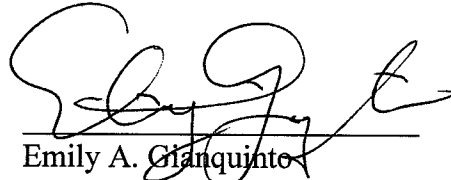
II. The Participation Memorandum Indicates that Chairman Stein Has Pre-Judged the Merits of these Petitions

The Participation Memorandum states that "Chairman Stein intends to participate in the deliberations and vote for the above referenced proceedings" (emphasis added).

This language indicates that the Chairman has determined that he will vote to approve the petitions filed by the petitioner. The Grouped Parties therefore object to the Chairman's participation on the grounds that he has pre-judged the merits of these petitions, which is cause for disqualification. "The test for disqualification has been succinctly stated as being whether a disinterested observer may conclude that [the hearing officer] has in some measure adjudged the facts as well as the law of a particular case in advance of hearing it." Elf v. Dep't of Pub. Health, 66 Conn. App. 410, 426, 784 A.2d 979 (2001) (alteration in original).

WHEREFORE, the Grouped Parties object to the Participation Memorandum distributed by the Council.

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 29th day of April, 2011:

Carrie L. Larson
Paul Corey
Thomas D. McKeon
David M. Cusick
Richard T. Roznoy
David R. Lawrence and Jeannie Lemelin
Jeffery and Mary Stauffer
Walter Zima
Eva Villanova

and a copy was emailed to:

John R. Morissette
Christopher R. Bernard
Joaquina Borges King



Emily A. Gianquinto