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January 4, 2011

Connecticut Siting Council
Attn: Hon. David Caruso, Chair
10 Franklin Square
New Britain, CT 06051

**Re: Request for Party Status in Petition Nos. 983 and 984,
BNE Energy, Wind Projects, Colebrook**

Dear Judge Caruso:

Stella and Michael Somers are the owners of Rock Hall, the only remaining residence in the Northeast designed by Addison Mizner and a historic property on the National Register of Historic Places. Rock Hall is located at 19 Rock Hall Road in Colebrook, in close proximity to two industrial wind turbine projects that are proposed for a residential area in Colebrook and are currently pending before the Siting Council.

The Somers hereby seek party status in the Petition of BNE Energy Inc. ("BNE") 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"), dated December 6, 2010, and the 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 Winsted-Norfolk Road in Colebrook, Connecticut ("Wind Colebrook North"), dated December 13, 2010.

Contact information for proposed party:

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I. Manner in which proposed party claims to be substantially and specifically affected

Rock Hall, once a private residence and now also a luxury, resort-style bed and breakfast known as Rock Hall Luxe Lodging, was designed and built in 1911 and 1912 by Addison Mizner and features landscaping attributed to the firm of Olmsted and Olmsted. Because of its cultural and historic significance, Rock Hall was put on the National Register of Historic Places in July 2010 – a fact that BNE omitted in its petitions, which claim that the proposed industrial facilities will have no adverse impact on historic and cultural resources because there are no such resources in proximity to Wind Colebrook South or Wind Colebrook North.

In fact, the proposed facilities will substantially and specifically affect Stella and Michael Somers because Wind Colebrook North will be located within one-half mile of Rock Hall and Wind Colebrook South will be located within 1.5 miles of Rock Hall. BNE's own viewshed analyses show that the wind turbines at Wind Colebrook North will be visible year-round from Rock Hall. BNE's viewshed analyses for Wind Colebrook South indicate that those turbines are also likely to be visible from Rock Hall. Those analyses were submitted as Exhibit J to BNE's petitions.

Both proposed facilities are within the 1.5-mile area of potential effect ("APE") established by the Federal Communications Commission pursuant to Section 106 of the National Historic Preservation Act. Historic properties within the APE, which is a minimum standard applied to stationary, narrow towers, are presumed to be affected by such facilities. BNE has the burden to prove to the State Historic Preservation Office and to the Council that its industrial wind turbines, which will be taller than the Statue of Liberty and wider than a football field, will not have an adverse effect on Rock Hall. The Somers submit that BNE cannot meet that burden.

Guests come to Rock Hall to enjoy picturesque and peaceful scenery in a quiet, secluded area. Rock Hall is a sought-after location for peaceful year-round getaways, intimate wedding

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ceremonies, small family reunions, corporate gatherings and renewal of vow ceremonies due to its location, unique architecture and the beauty and serenity of its grounds. Guests at Rock Hall enjoy the use of the Somers' patio, pool area and outdoor seating, which overlook a wildflower meadow. The proposed industrial wind turbines would be in full view of these outdoor activities, meaning that guests will no longer choose Rock Hall for their getaways and intimate events if the Council approves BNE's petitions.

The proposed use of industrial wind turbines to generate electricity in a residential zone will destroy the serenity of the area due to the noise associated with their use and will negatively impact the beautiful scenery that surrounds Rock Hall because they will be visible from Rock Hall. If the Council approves BNE's petitions, guests will also be reluctant to visit Rock Hall due to the reported health problems suffered by those in close proximity to other industrial wind turbine projects, including sleep disturbance, headaches, nausea, tinnitus and dizziness. The Somers and their daughter, who live at Rock Hall, face similar health problems.

BNE is required by law to prove that its proposed facilities will have no adverse effects on Rock Hall. BNE cannot do so. The proposed facilities will have a direct negative impact on the Somers' use and enjoyment of their property and will threaten the continued commercial viability of Rock Hall.

II. Contention of the petitioner

Rock Hall was designed and built in 1911 and 1912 as a private residence by Addison Mizner, who is known as "The Architect of Palm Beach." The nearly 23-acre estate is home to a 10,000-square foot manor house in Mizner's signature Spanish Mediterranean Revival style, which made him Florida's leading architect in the 1920s.

Mizner designed more than 50 Palm Beach villas and Florida mansions for wealthy families, including the Vanderbilts, the Morgans and the Wanamakers. He also designed the famous Everglades Club and the Boca Raton Resort and Club. Today, Rock Hall is the only surviving Mizner residence north of the Mason-Dixon line.

Rock Hall was built for Jerome Alexandre, the heir to the Alexandre Steam Ship fortune, and his wife Violet Adelaide Oakley. The Alexandre family was well known in New York society and its members spent a significant amount of their time in the Berkshires.

Rock Hall's grounds are believed to be the result of collaboration between Mizner and the firm of Olmsted and Olmsted (aka the Olmsted Brothers), owned by the sons of Central Park designer Frederick Law Olmsted. Olmsted and Olmsted was also commissioned to do design work in Bushnell Park in Hartford, Connecticut. Rock Hall is home to one of the largest collections of mature specimen trees in New England, including the tallest Frasier fir in

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Connecticut. The landscaping features curving drives, allées of trees, a rustic garden pavilion, a balustraded terrace, a century-old apple orchard, and cutting and vegetable gardens that are used by Rock Hall's owners and their guests. BNE's proposed industrial wind turbines would be in full view of all of these landscaping features.

Stella and Michael Somers purchased Rock Hall in 2005 and began a complete restoration of the residence and grounds, which had fallen into disrepair. The Somers restored the exterior stucco and repaired the surviving original windows and internal elements such as fireplaces, wall paneling, mantles and floors where needed. New wallpaper, chosen to correspond to the time period in which Rock Hall was built, was applied only where wallpaper had previously existed. Local arborists and historic landscape architects maintained the original landscaping features and created additional features in keeping with the period of the house and grounds. The Somers put great effort into keeping every detail of the restoration in character with Mizner's original vision of the property. As noted in Rock Hall's application for inclusion on the National Register, "[m]odern intrusions in the fabric are few." That sentiment was echoed by the director of the SHPO, who stated that the Somers' restoration work "stands as a model for what all should do."

In 2008, the Somers converted the estate into a luxury, resort-style bed and breakfast in order to make the historic landmark self sustaining. In its first year of operation, Rock Hall was named an Editors' Choice for Yankee Magazine's Best of New England Summer 2009 issue. In 2010, Rock Hall was named in New England Travel Magazine's Best of New England. Rock Hall has also been recognized in Connecticut Magazine, Edible Nutmeg, Luxist, Rural Intelligence, Berkshire Living, Passport Magazine, NY1, Westchester Magazine, Uptake Lodging, The Litchfield County Times and The Winsted Journal. Rock Hall was also featured on Joan Hamburg's show on WCBS Radio.

Notably, Rock Hall was chosen as the Best "Far from the Madding Crowd" B&B by Yankee Magazine. The accompanying write up on Rock Hall focused on guests' ability to "get away from it all" with a visit to Rock Hall. On TripAdvisor.com, where many travelers review their stays at lodging locations, guests of Rock Hall extol the virtues of its beautiful grounds, peaceful location and picturesque views – echoing the "get away from it all" sentiment. Similar reviews can be found on Yelp.com and BedandBreakfast.com. Rock Hall's secluded, peaceful surroundings are significant parts of its charm and attraction for guests. BNE's proposed industrial wind turbine projects will destroy that charm and attraction.

If Wind Colebrook South and North are constructed, guests of Rock Hall would see the industrial wind turbines from the pool area, the pool house, the meadow, the hiking trail, all of the gardens, three of the five bedrooms and two balconies. The noise from the industrial wind turbines will likely be heard everywhere on the Somers' property, including inside Rock Hall.

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Rock Hall is in the running to be named by Boston Magazine as one of New England's most stress-free vacation destinations. The results will be announced in Boston Magazine's summer 2011 issue. Rock Hall is also being considered for inclusion in an upcoming Frommer's edition of "luxury destinations." These opportunities, which would ensure Rock Hall's continued commercial viability, will not be available if BNE is permitted to proceed with its proposed industrial wind turbine projects.

In 2009, after learning that the only other Mizner-designed residence in the Northeast was in danger of being torn down by its owners over the protests of preservationists, the Somers decided to apply for National Register status for Rock Hall to ensure that it would be protected from a similar fate. They hired a historical architect to prepare Rock Hall's application for historic status. The application details not only the significance of Rock Hall's architecture, but also its original landscaping design and features and its general location "in the Berkshires, adjacent to two quaint villages, yet accessible to railroads and a new highway, [which] further exemplified the typical country house in Northwest Connecticut and the Southern Berkshires."

In August 2010, the Somers received notice from the Connecticut Commission on Culture and Tourism's Historic Preservation and Museum Division (the "SHPO") that Rock Hall had been put on the National Register of Historic Places in late June 2010. According to the SHPO, the National Register is "the official list of historic properties recognized by the Federal Government as worthy of preservation for their significance in American history, architecture, archaeology, engineering and culture" that "is part of a national policy to coordinate and support public and private efforts to identify, evaluate and protect our cultural and national resources."

Listing on the National Register means that Rock Hall is entitled to consideration in planning for federal, federally licensed and federally assisted projects. The National Historic Preservation Act delegates to state historic preservation offices the responsibility to "cooperate with the Secretary, the Advisory Council on Historic Preservation, and other Federal and State agencies, local governments, and organizations and individuals to ensure that historic properties are taken into consideration at all levels of planning and development."

Rock Hall is also on the Connecticut State Register of Historic Places, which requires State and local agencies to consider historic properties in the early stages of planning projects and provides for the review of State-funded or assisted projects which may affect historic properties.

In June 2009, David Bahlman, director of the SHPO and Deputy State Historic Preservation Officer, praised the Somers for their "brilliance in dealing with a very difficult rehabilitation of Rock Hall" and stated that their restoration work "stands as a model for what all should do." In reporting on Rock Hall's National Register status, the Connecticut Trust for Historic Preservation stated that "the landscape adds greatly to the house's appeal and livability."

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Rock Hall's presence within half a mile of Wind Colebrook North and within the area of potential effect relative to Wind Colebrook South is not included in Petition Nos. 983 or 984. BNE's consultant, VHB, sent letters to the SHPO stating that VHB had reviewed "historic and cultural resources" within a 1-mile radius of both sites and had not found any historic resources listed on the National Register. VHB opined that based on its research, Wind Colebrook South and Wind Colebrook North "will have no visual or direct effect upon historic or cultural resources."

Perhaps based on this misinformation, the SHPO provided VHB with "No Effect" stamps, apparently signed by David Bahlman, the SHPO director who less than five months earlier had praised the Somers' restoration work at Rock Hall.

By letter dated December 22, 2010, the SHPO informed BNE and the Siting Council that Rock Hall's presence within "the Area of Potential Effect" of Wind Colebrook North was not identified in BNE's submission to the SHPO. The SHPO asked that VHB provide it with "photographic views, photo simulations and a visual analysis for Rock Hall, 19 Rock Hall Road in Colebrook, so we may have an opportunity to revise our comments, if appropriate."

The SHPO's "No Effect" stamp for Wind Colebrook North is therefore in question. The Somers believe that the SHPO's "No Effect" stamp for Wind Colebrook South is also erroneous, and have asked the SHPO to also review the effect of Wind Colebrook South on Rock Hall.

In their correspondence, both VHB and the SHPO have referred to and relied upon Section 106 of the National Historic Preservation Act and the FCC's related presumption that visual effects of new facilities with a tower height greater than 400 feet will occur within 1.5 miles from the proposed tower site. That presumption is a minimum standard established by the FCC for consideration of the adverse effect of stationary, narrow towers on historic structures. The industrial wind turbines proposed by BNE will stand approximately 492 feet tall and the blades will have a diameter of 328 feet. The APE for such massive structures, which are basically six rotating football fields standing taller than the Statue of Liberty, is logically greater than 1.5 miles.

Rock Hall is within the APE for both of BNE's proposed industrial facilities. BNE has the burden to show that Rock Hall will not be adversely affected by Wind Colebrook South and North – as the SHPO acknowledged in its letter asking BNE to provide evidence about Wind Colebrook North's proximity to Rock Hall.

The Somers have requested that the SHPO provide them with the opportunity to be heard on this matter at a hearing, and have requested that the SHPO perform a review of both Wind Colebrook South and North's presumed effect on Rock Hall. Rock Hall also plans to seek a

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review of Wind Colebrook South and North by any and all federal, state and local agencies providing BNE with funding for the project, pursuant to Section 106.

Until the SHPO and relevant federal, state and local agencies have conducted their reviews and held hearings on the adverse effect of these proposed industrial facilities, BNE cannot represent to the Siting Council that Wind Colebrook South and North will have "no effect" on Rock Hall.

III. Relief sought by the petitioner

The Somers request that the Siting Council deny BNE's petitions for declaratory ruling because BNE cannot show that Wind Colebrook South and North will not have an adverse effect on Rock Hall, a historic property. They further ask the Council to impose a moratorium on all industrial wind generation projects in areas zoned residential or which are located within 1.5 miles of historic structures until appropriate laws and regulations may be put in place by the State, the Council and local regulatory bodies.

IV. Statutory or other authority therefore

Rock Hall is entitled to party status in this proceeding pursuant to the National Historic Preservation Act, 16 U.S.C. 470 *et seq.*, 30 C.F.R. Part 800, Sections 4-177a, 16-50l, 16-50n, 22a-15 through 22a-20 of the Connecticut General Statutes and Sections 16-50j-13 through 17 of the Regulations of the Siting Council.

V. Nature of the evidence that the petitioner intends to present

The Somers will present the evidence including but not limited to:

- testimony by Michael and Stella Somers regarding Rock Hall, including its historic status, their work restoring the property, their investment in the property and the expected impact of Wind Colebrook South and North on their business and the continued commercial viability of Rock Hall;
- testimony by guests of Rock Hall regarding the impact of siting six industrial wind turbines in the area surrounding Rock Hall and the likelihood that they will no longer patronize Rock Hall if such siting is permitted;
- expert testimony regarding the significance of Rock Hall's status on the National Register and the State register, the adverse effects of nearly 500-foot tall wind turbines on a historic structure and the need to protect historic resources; and

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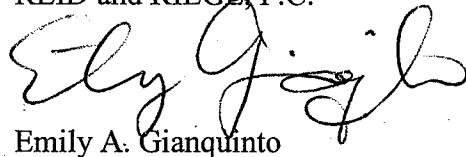
- studies, surveys and expert opinion regarding the deleterious visual and noise effects of siting wind turbines in close proximity to residential buildings, including negative health effects such as headaches, sleep disturbances, nausea, dizziness and tinnitus.

VI. Other comments for the Siting Council's consideration

The Somers ask that the Council hold public hearings on BNE's petitions for declaratory rulings in Colebrook or one of the surrounding towns, so that local residents will have the opportunity to voice their opinion on the proposed industrial facilities. Industrial wind projects do not belong in residential areas, and the residents who will be impacted by BNE's proposed industrial projects deserve to be heard on this important issue.

Very truly yours,

REID and RIEGE, P.C.



Emily A. Gianquinto

cc: Carrie L. Larson, Esq.
Paul Corey
Richard T. Roznoy, Esq.
David Bahlman