

**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

March 22, 2011

**PETITIONER BNE ENERGY INC.’S
OBJECTION TO MOTION TO ALLOW GE SETBACK INFORMATION**

Petitioner BNE Energy Inc. (“BNE”) submits this objection to Brandy Grant’s (“Grant”) motion to allow GE setback information, dated March 20, 2011. BNE notes that GE setback information has already been provided in this proceeding subject to a proposed protective order and under seal. BNE objects to this motion as detailed below:

1. This petition was filed with the Council on December 6, 2011.
2. Grant was granted party status on March 17, 2011.
3. On March 15, 2011, BNE provided pertinent and requested documents from GE pursuant to a motion for protective order and filed under seal. As noted in this proceeding, BNE has executed a confidentiality agreement with GE that prohibits BNE from publicly disclosing GE documents. BNE notes that this confidentiality agreement itself was also produced pursuant to protective order and under seal.
4. On March 20, 2011, Grant filed a motion to allow GE setback information, essentially claiming that GE’s setback information should not be deemed “proprietary” and should be publicly available in this petition.
5. Contrary to Grant’s assertion, the documents fall under the Council’s guidelines for protective order, available at:

<http://www.ct.gov/csc/cwp/view.asp?a=945&q=438698&cscPNavCtr=#50398>, and are exempt

from public disclosure pursuant to the Freedom of Information Act, Conn. Gen. Stat. § 1-210 (b) in that they are confidential and proprietary business records of BNE and subject to a confidentiality agreement.

6. The Council has previously granted a similar request to BNE in petition 980. BNE assumes that the Council will make these documents available to participants in this proceeding similar to the procedure established in petition 980. Therefore, no party can claim that they are prejudiced by the proposed protective order.

7. BNE notes that while Grant argues that the documents are publicly available, Grant has not included these purportedly public documents as proposed exhibits in this proceeding. Grant's contention that the documents are publicly available is further undermined by the fact that Grant has not yet had the opportunity to view the documents filed by BNE under seal and therefore cannot legitimately argue that those documents are the same documents Grant contends are publicly available.

8. BNE further notes that even if Grant is correct in her assertion that some GE information is publicly available, it would not alleviate the fact that BNE cannot produce or publicly disclose information provided to BNE by GE pursuant to the confidentiality agreement.

9. To the extent that the Council considers permitting these documents to be made public rather than be subject to BNE's proposed protective order, BNE will be forced to withdraw these documents from the record in this proceeding entirely, depriving both the Council and the public of the opportunity to review and consider them.

WHEREFORE, petitioner BNE objects to Grant's motion to allow GE setback information.

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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