**STATE OF CONNECTICUT**
**CONNECTICUT SITING COUNCIL**

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| **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 CONSOLIDATE**

Petitioner BNE Energy Inc. ("BNE") submits this objection to FairwindCT, Inc. ("Fairwind"), Susan Wagner and Stella and Michael Somers (the "Grouped Parties" [1])'s motion to consolidate evidentiary hearing, dated March 15, 2011. Fairwind has previously filed a motion to consolidate this proceeding with pending petitions 980 and 984 on January 13, 2011, which was unanimously denied by the Council on January 31, 2011. Because the Grouped Parties' motion raises no new factual issues or changed circumstances as further discussed below, the motion to consolidate should be denied.

1. This petition was filed with the Council on December 6, 2011. Petition 984 was filed with the Council on December 13, 2011. As such, each petition has a different decision deadline pursuant to Conn. Gen. Stat. § 4-176.

2. While BNE, the petitioner in both 983 and 984, concedes that the parcels of property in both of these pending proceedings are in close proximity, despite the Grouped Parties' assertion that BNE "chose" to file these two proceedings separately, BNE was ***legally required*** to file these projects as separate petitions since they involve separate parcels of property and, importantly, separate interconnections to the electrical grid.

[1] Please note that Susan Wagner was not a party to this proceeding and therefore had no legal standing to assert this motion to consolidate evidentiary hearing when it was filed on March 15, 2011. Ms. Wagner was subsequently approved as a party to this proceeding on March 17, 2011.

2. On January 13, 2011, Fairwind filed a motion to consolidate this proceeding with pending petitions 980 and 984. On January 31, 2011, the Council denied this motion. The Council denied this motion based on the fact that the three separate petitions were filed on different dates, and involve different parties and intervenors, different site locations and different residents with site-specific concerns. *See* Council memorandum dated February 14, 2011.

3. The Grouped Parties essentially move for the Council to reconsider this previous decision pursuant to Conn. Gen. Stat. § 4-181a. However, in moving for reconsideration, the Grouped Parties cite no new evidence and no changed circumstances that would warrant reconsideration of the Council's previous decision.

4. Instead of citing new evidence or changed circumstances, the Grouped Parties simply assert that consolidation is warranted because the petitioner is the same and many of the witnesses for the petitioner are the same. This is not a sufficient basis to warrant reconsideration of the Council's previous decision and permit consolidation.

5. Contrary to the Grouped Parties' baseless assertion, consolidation of these two proceedings will be highly prejudicial to BNE and will only result in massive confusion in the record and confusion for parties and intervenors.

6. Contrary to the Grouped Parties' assertions, maintaining the petitions as separate petitions will not be prejudicial to other parties and intervenors. No party or intervenor has been forced to participate in either this proceeding or the petition 984 proceeding. In addition, those parties or intervenors who chose to participate in both proceedings and chose to hire attorneys or "experts" did so by their own volition. In doing so, each party or intervenor should have expected that each proceeding would proceed independently since the petitions were filed separately.

7. The Grouped Parties baselessly assert that they will be prejudiced if these proceedings are not consolidated because they will be unable to cross-examine BNE regarding the cumulative effects of the two proposed projects. This is simply untrue. BNE has provided comprehensive environmental and site safety evaluations for both this proceeding and petition 984. One need only review those reports to determine the cumulative impacts of the two proposals.

8. Finally, the Grouped Parties again make the baseless assertion that somehow Council staff have implied or stated that this proceeding and the petition 984 proceeding have been or would be consolidated. This is simply untrue. Council staff has only indicated that the field review and public comment sessions would take place at the same time for the convenience of the public and for Council members. There has never been any indication that the evidentiary hearings have been consolidated. In fact, to the contrary, the Council has already denied Fairwind's previous motion to consolidate, which should have made it clear to the Grouped Parties that these two proceedings would proceed independently of each other.

WHEREFORE, petitioner BNE objects to the Grouped Parties motion to consolidate.

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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