

**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

April 7, 2011

**MOTION TO STRIKE PRE-FILED TESTIMONY
OF DAVID PRESSMAN**

Petitioner BNE Energy Inc. (“BNE”) hereby moves to strike the pre-filed testimony of David Pressman. Specifically, FairwindCT, Inc. (“FairwindCT”) has submitted the pre-filed testimony of David Pressman which purports to attack (1) the economic benefits of the Project, (2) the projected capacity factor, (3) the placement of the turbines as affecting their output capability, (4) the capital, operating and maintenance costs of the project and (5) the use of wind power when other options may be available to Connecticut for satisfying its Class 1 Renewable Portfolio Standard (RPS). All of Mr. Pressman’s pre-filed testimony is irrelevant to the Siting Council’s determination as to whether the Petition complies with the air and water quality standards of the Department of Environmental Protection. Further, Mr. Pressman is completely unqualified to make many of the assertions in his pre-filed testimony. Therefore, the Siting Council should strike Mr. Pressman’s testimony from the record.

ARGUMENT

1. Mr. Pressman's Testimony Is Irrelevant

The Project is pending before the Council pursuant to the declaratory ruling provisions in Conn. Gen. Stat. §16-50k(a). Under such provisions, the Council “shall” approve the Project “as long as such project meets air and water quality standards of the Department of Environment Protection.” Economic impacts and non-environmental technical issues are not included in those items that the Council can consider when rendering a decision on a Petition. The Council has recognized the fact that economic impacts are generally outside the scope of its jurisdiction in previous proceedings and properly excluded such information from the record. *See, e.g.*, Connecticut Siting Council Docket 366 and Docket 396. Therefore, information pertaining to economic considerations is irrelevant along with technical issues that do not affect the air and water quality standards of the Department of Environmental Protection.¹

Mr. Pressman first states that the Petitioner's projected average wind speed is suspect.² Assuming, *arguendo*, that Mr. Pressman is correct and the actual average wind speed that will be experienced at the site is less than 7 m/s, this information is irrelevant to the Siting Council. The average wind speed at an altitude of 100 meters does not affect whether the Project meets the air and water quality standards of the Department of Environmental Protection. This same analysis applies to Mr. Pressman's evaluation of the 30% capacity factor. Again, this argument has no bearing on the Siting Council's evaluation of the Project. If the Petitioner's capacity factor is

¹ Indeed, if the Connecticut utilities are “overpaying” for renewable energy, consumers (through the Office of Consumer Counsel) can challenge the utilities' rates at the Connecticut Department of Public Utility Control.

² Mr. Pressman states that the Petitioner has not released its wind data for “independent review”. This statement is simply false and misleading to the Siting Council. The Petitioner filed its wind data under a protective order which allows any party to review the data at the Siting Council. The fact is that FairwindCT has chosen to not avail itself of that opportunity.

proven to be untenable, the result is an economic issue to the Petitioner and not an environmental issue affecting the Project. As Mr. Pressman states in his pre-filed testimony, both capacity factor and wind output are relevant only in relation to efficiency of the units and costs per kilowatt hour. See Pressman PFT at 10-11. This information has absolutely nothing to do with the Project's compliance with water and air quality standards.

Mr. Pressman further states that the Petitioner is placing the turbines too close to each other. The result, according to Mr. Pressman, is an adverse impact on power production. Once again, such a consideration is irrelevant to the jurisdiction of the Siting Council's review of the Project. A glaring example of Mr. Pressman's unfamiliarity with the Siting Council is seen on page 13 of his testimony when he states that the Siting Council has a "mission to approve renewable projects that provide Connecticut ratepayers the lowest reasonable cost power." As the Siting Council is keenly aware, its jurisdiction does not extend to approving petitions based on the cost of power and whether lower cost alternatives apply. Instead, such issues get resolved by market forces or through rate proceedings at the Department of Public Utility Control. For any participant in this proceeding to state otherwise demonstrates their ignorance of the Siting Council process.

Mr. Pressman concludes his testimony about economic factors by arguing that the Siting Council should not approve the Project because alternative resources in Connecticut and New England are less costly to meet Connecticut's RPS. This part of Mr. Pressman's testimony is also based on his mistaken understanding of the Siting Council's role in reviewing the Project. It is clear that Mr. Pressman believes that the Siting Council has the authority to weigh different projects and alternative and to use its jurisdiction to make qualitative decisions over which projects should get built and which projects should not get built. Again, as the Siting Council

knows, it must evaluate each Project based on its own merits and based on whether it meets the appropriate legal standard – in this case, whether the project complies with DEP’s air and water quality standards. If other projects exist which can produce cheaper electric power or if other projects should be encouraged that potentially could produce cheaper electric power, it is of no concern to the Siting Council. Other state agencies and market forces exist to regulate such decisions. The limited nature of the Siting Council’s review necessarily eliminates these considerations from this proceeding.

Based on the foregoing, Mr. Pressman’s testimony relating to wind speed, capacity factors, turbine location, capital costs and electricity costs and available alternatives is irrelevant to the Siting Council’s review of the Petition and should be stricken from the record.

2. Mr. Pressman is not qualified to make certain conclusions

Beyond the fact that the testimony is irrelevant, Mr. Pressman is completely unqualified to make many of the assertions found in his pre-filed testimony.

Although Mr. Pressman makes an economic argument relating to the location of the turbines, his economic conclusions are based on Mr. Pressman’s opinion that the location of the turbines are not sufficiently above the tree line and are too close together. Both of these conclusions are very far afield from Mr. Pressman’s area of expertise.

According to Mr. Pressman’s own testimony, Mr. Pressman is an Analyst at Energy Ventures Analysis. He has a degree in History and Political Science and has held many positions in the area of research and analysis for political and economic firms. Mr. Pressman is not an engineer or expert in the erection, maintenance or placement of wind turbines. Despite having no expertise in these areas, Mr. Pressman attempts to provide opinions regarding the appropriate

height of the turbines and the spacing of the turbines on the site. Because Mr. Pressman has no expertise relating to these issues, his testimony should be stricken from the record.

For these reasons, BNE moves to strike the testimony of Mr. Pressman.

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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