

**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 STELLA SOMERS**

Petitioner BNE Energy Inc. (“BNE”) hereby moves to strike the pre-filed testimony of Stella Somers. Specifically, FairwindCT, Inc. (“FairwindCT”) has submitted the pre-filed testimony of Stella Somers which refers to the rules of the Federal Communications Commission (FCC) relating to cell tower construction. *See* Pre-filed Testimony, page 9. Since the FCC has no jurisdiction over wind turbines and the rules specifically referred to by Ms. Somers do not apply to wind turbines, references to the FCC rules relating to cell towers should be stricken.

Ms. Somers’ testimony refers to an FCC rule relating to “area of potential effects,” known as APEs, for cell towers over 400 feet. The FCC rule was part of a Nationwide Programmatic Agreement which implemented Section 106 of the National Historic Preservation Act. *See In the Matter of Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act Review Process*, First Report and Order, FCC Docket No. 03-128. As indicated in Attachment 2 to the Nationwide Programmatic Agreement (which is attached as Attachment A to the First Report and Order), the First Report and Order, along with the Agreement, only applies to communication facilities and activities. The FCC makes no reference to wind turbines.

Since the FCC rules and regulations do not affect wind turbines and therefore have no bearing on the current Petition, BNE moves to strike references to the FCC from the testimony of Stella Somers.

Respectfully Submitted,
BNE ENERGY INC.

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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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