

**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 983

January 6, 2011

OBJECTION TO REQUEST FOR PARTY STATUS

The petitioner, BNE Energy Inc. (“BNE”) respectfully submits this objection to a request for party status dated December 11, 2010 submitted by Robin Hirtle (“Hirtle”). In support of its objection, BNE states as follows:

1. This petition for declaratory ruling was submitted to the Council on December 6, 2010 (the “Petition”).
2. On or about December 11, 2010, Hirtle submitted a request for party status purportedly based on §§ 16-50l and 4-177a.
3. Connecticut General Statutes § 16-50n (a) states that the parties to a declaratory ruling proceeding shall include: (1) the applicant, certificate holder or petitioner; (2) each person entitled to receive a copy of the application under § 16-50l if such person files a notice of intent to be a party; (3) any domestic or qualified nonprofit corporation or association formed in whole or in part to promote conservation or natural beauty; and (4) any such other persons as the council may at any time deem appropriate.
4. If unable to establish party status pursuant to 16-50n, the Council has the option of deeming interested persons intervenors pursuant to 16-50n (b).

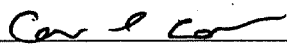
5. Hirtle has not alleged any facts to support their request for party status pursuant to the criteria of 16-50n – Hirtle does not allege (nor can she claim) that she was entitled to notice of the filing of this Petition nor does Hirtle allege to be a domestic or qualified nonprofit corporation.
6. Since Hirtle does not meet any of the above criteria, the request can only be considered through Connecticut General Statutes § 4-177a and R.C.S.A. § 16-50j-14, whereby a requesting party must establish “facts that demonstrate that the petitioner’s legal rights, duties or privileges shall be specifically affected by the agency’s decision in the contested case” and the manner in which the petitioner claims to be affected.
7. The Council has not yet rendered a determination to hold a “proceeding” for this pending Petition and therefore this Petition cannot be considered a “contested case” at this time. Until that determination is made, the request for party status must be denied as being premature.
8. Turning to the substance of Hirtle’s claims, in her request for party status, Hirtle asserts claims regarding a private dispute regarding the use of a driveway. As this Council is well aware, private property disputes are outside the jurisdiction of the Council. In fact, as noted in Hirtle’s request for party status, Hirtle has already pursued this claim in the appropriate venue by filing a lawsuit in State superior court. Further, pursuant to Connecticut General Statutes § 16-50k, the Council’s legal standard in reviewing this Petition is whether the project complies with air and water quality standards

from the Department of Environmental Protection. Therefore, Hirtle's claims are wholly irrelevant to the Council's consideration of this Petition.

9. Based on the facts asserted in Hirtle's request, Hirtle cannot establish facts necessary to be considered for party status established in Connecticut General Statutes § 16-50n (a). Assuming the Council votes to establish a proceeding for this pending Petition, Hirtle is more appropriately included in this petition as an intervenor.

WHEREFORE, BNE respectfully objects to Hirtle's request for party status and, assuming the Council establishes a proceeding for this Petition, requests that the Council grant intervenor status in this Petition.

Respectfully Submitted,

By: 

Attorney For BNE Energy Inc.
Carrie L. Larson, Esq.
clarson@pullcom.com
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702
Ph. (860) 424-4312
Fax (860) 424-4370

Certification

This is to certify that a copy of the foregoing has been mailed this date to all parties and intervenors of record.

Richard Roznoy (request for party status pending)
11 School Street
P. O. Box 850
East Granby, CT 06026

Nicholas J. Harding (request for party status pending)
Emily A. Gianquinto
Reid and Riege, P.C.
One Financial Plaza
Hartford, CT 06103



Carrie L. Larson