

**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
Winsted-Norfolk Road in Colebrook,
Connecticut (“Wind Colebrook North”)**

Petition No. 984

April 19, 2011

**PETITIONER BNE ENERGY INC.’S
OBJECTION TO MOTION CONCERNING SCHEDULE**

Petitioner BNE Energy Inc. (“BNE”) submits this objection to FairwindCT, Inc. (“Fairwind”), Susan Wagner and Stella and Michael Somers’ (the “Grouped Parties”) motion concerning schedule, dated April 12, 2011.

The schedule in this proceeding is clear and has been established by the Council’s hearing schedule and subsequent Council notices. The Grouped Parties previously filed an objection to the hearing procedure in this proceeding, dated March 15, 2011, which specifically objected to the scheduling of expert witness testimony. This motion as it related to Petition No. 983 was unanimously rejected by the Council on March 23, 2011 at an evidentiary hearing in that proceeding. The Grouped Parties now continue to object to the scheduling of this proceeding, this time based on undisclosed “school exams and vacations.” The Council should not condone this obvious attempt to rearrange the pre-established hearing schedule according to the whims of the Grouped Parties, and instead should continue this proceeding in an orderly manner as established by the Council’s hearing schedule and subsequent Council notices.

It is unclear why the Grouped Parties waited almost a month after the issuance of the Council’s March 18, 2011 scheduling notice to object to it on the basis of “long scheduled” trips and annual holidays. These could not have come as surprises to the Grouped Parties, and cannot credibly be painted as such. The Grouped Parties should have disclosed these obvious

scheduling conflicts at the beginning of this proceeding. BNE has arranged for its witnesses to appear at each and every scheduled hearing, and will continue to do so throughout the remainder of this proceeding. The Council should not disrupt the orderly scheduling of this and other proceedings at this late juncture. The Grouped Parties' motion is not remotely like Fairwind's previous request in pending petition 980, in which both Fairwind and another party simply requested a date certain for their case to be presented to avoid witness travel and attendance on multiple days. In that proceeding, despite the obvious prejudice to BNE, which was still required to have its witnesses, many of which are from out of state, present at each day of the hearing proceeding, BNE did not object to that simple request for the benefit of those parties. Here, the Grouped Parties' proposed "scheduling" completely disrupts the order of this proceeding and proposes to inappropriately combine the records for this proceeding with petition 983. This request is simply unreasonable.

Furthermore, the Grouped Parties again seek to do an end-run around the Council's refusal to consolidate this proceeding with proceedings on other BNE petitions. The Grouped Parties' motion concerning schedule again attempts to do just that—consolidate this proceeding with petition 983 by proposing to provide its expert testimony relating to both petitions on the same day(s), and proposing to allow cross-examination of its experts relating to both petitions only on certain days. The Grouped Parties have continued to attempt to dictate who should or should not be a party to this proceeding—now they are attempting to dictate the very schedule of the proceeding! Again, BNE was **legally required** to file the Wind Colebrook North (this petition) and Wind Colebrook South (petition 983) projects as separate petitions since they involve separate parcels of property and, importantly, separate interconnections to the electrical

grid. The record in each of the proceedings before the Council must remain clear; each petition is separate and must be handled separately.

Although the Grouped Parties will undoubtedly shriek prejudice if a witness cannot testify, despite revealing its multitude of scheduling conflicts two days before the first conflict is to occur, this is simply untenable. If a witness for the Grouped Parties is not available to provide testimony and respond to cross-examination, the pre-filed testimony for that witness can be accepted as public comment and can still be considered by the Council.

Finally, BNE points out the inaccurate claim of the Grouped Parties (p. 2-3 of motion concerning schedule) that Mr. Davison must travel from out of state. Mr. Davison's pre-filed testimony states that his office is located in West Hartford, Connecticut. BNE has not requested any accommodation for its numerous out of state witnesses; the Grouped Parties should not request nor receive accommodation for the same, real or feigned.

WHEREFORE, petitioner BNE objects to the Grouped Parties' motion concerning schedule.

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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