

**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 28, 2011**

**PETITIONER’S OBJECTION TO FAIRWINDCT, INC.,  
STELLA AND MICHAEL SOMERS AND SUSAN WAGNER’S  
MOTION TO COMPEL INTERROGATORY RESPONSES**

The petitioner, BNE Energy Inc. (“BNE”), submits this objection to FairwindCT, Inc., Stella and Michael Somers and Susan Wagner’s (the “Grouped Parties”) motion to compel interrogatory responses or in the alternative, strike, dated April 27, 2011. In their motion, the Grouped Parties seek to compel responses to interrogatories issued by the Grouped Parties that are irrelevant to this proceeding and go well beyond the scope of the topics specifically delineated by this Council as appropriate and relevant to the Council’s jurisdiction and determination of this matter. *See* Council Memorandum dated March 18, 2011. BNE appropriately objected to each of the interrogatories to which the Grouped Parties now seek to compel responses, as further discussed below. Therefore, the Grouped Parties’ motion to compel should be denied.

Further, BNE states the following:

1. This petition was filed on December 13, 2010, more than four months ago.
2. The Council set a pre-filing deadline of March 15, 2011 for this proceeding with an additional pre-filing deadline of April 19, 2011.
3. Throughout this proceeding, Fairwind has issued well over 300 interrogatories to BNE, many of which are far outside the scope of this proceeding, seek

irrelevant information and are duplicative. Despite this, BNE has responded to all arguably relevant interrogatories.

4. The Grouped Parties issued numerous interrogatories that are entirely irrelevant to this proceeding, to which it now seeks to compel responses, including capacity factor information of other operating wind turbines, creation of jobs by the Wind Colebrook North project and copies of correspondence between BNE and GE as well as BNE and the Department of Energy.

5. The Grouped Parties have now filed a motion to compel responses to these interrogatories. BNE's objections to the interrogatories listed by Fairwind are appropriate. Therefore, BNE should not be compelled to provide responses.

6. With regard to the two interrogatories concerning capacity factors of other operating wind projects, that information is not only irrelevant to this proceeding but also not in the possession and control of BNE. Furthermore, to the extent that information is publicly available, the Grouped Parties can just as easily obtain that information as BNE could. The Grouped Parties attempt to argue that their unqualified witness, Mr. Pressman, has somehow refuted BNE's estimation of the capacity factor of the turbines proposed for this project. It is clear from his credentials that Mr. Pressman is unqualified to opine as to potential capacity factors. It is equally clear that the operation of other wind turbine facilities—many of which are utilizing different turbines built by different manufacturers than those proposed by BNE in this petition—is irrelevant to this proceeding.

7. The Grouped Parties seek information concerning the creation of jobs by the Project. It is clear from the Council's controlling statutes, from the Council's March 18, 2011 memorandum delineating the topics relevant to its determination of this petition and

even from BNE's own submission that economic impacts of the Project—both positive and negative—are outside the scope of the Council's statutory decision making criteria. In addition, the Grouped Parties fail to note that despite the irrelevancy, BNE has provided information sufficient to respond to this request. *See* Pre-Filed Testimony of Joel Rinebold. Therefore, BNE's objection to this interrogatory is appropriate.

8. Finally, the Grouped Parties yet again seek to compel BNE to produce irrelevant correspondence between BNE and GE and between BNE and the Department of Energy (DOE). First, the requested correspondence is irrelevant to this proceeding. Second, the request is overly broad and unduly burdensome. BNE has already produced all relevant correspondence between BNE and GE. The Grouped Parties continue to argue that somehow it is the Council's role to enforce recommendations issued by a private company manufacturing equipment to be utilized in a project under the Council's jurisdiction. Strikingly absent from this argument are any citations to any statute, regulation or guidance document applicable to the Council that would require the Council to consider such information. That is because no such statute, regulation or guidance document exists. As stated, BNE has produced all arguably relevant information it has received from GE in this proceeding. The Grouped Parties should not be permitted to continue their fishing expedition into irrelevant correspondence between BNE and GE.

9. The Grouped Parties make the baseless argument that any correspondence between BNE and the DOE is relevant because, if BNE is receiving funding from the DOE, then the Project would be considered an undertaking and the DOE historic preservation officers must review the Project. The flaws in this illogical argument are almost too numerous to mention. First, the interrogatory did not specifically request information

regarding funding from DOE to BNE and therefore is overly broad and unduly burdensome. In addition, even the interrogatory were more narrowly tailored, the sources of BNE's funding are irrelevant to the Council's statutory decision-making criteria. Furthermore, if the Grouped Parties are seeking information regarding funding allegedly granted from DOE to BNE, that information is publicly available and therefore just as easily obtainable by the Grouped Parties themselves.

10. Remarkably, the Grouped Parties then argue that in lieu of compelling responses to these limited five interrogatories, the Council should strike all testimony concerning funding, claimed efficiency, local benefits and job creation and communications with GE, claiming that these topics are all irrelevant to this proceeding. This nonsensical argument—on the one hand demanding more detailed responses and on the other hand claiming the requested information is irrelevant—is overreaching and baseless. First, BNE has never argued that claimed efficiency is irrelevant—it is only arguing that efficiency of other facilities utilizing other sized turbines produced by other manufacturers in areas of the country with different wind resources is irrelevant to this proceeding. BNE has provided limited information concerning its funding sources and economic benefits of the Project with the recognition that such information is outside the scope of the Council's statutory decision-making criteria. Finally, as discussed *supra*, BNE has produced all arguably relevant information provided to BNE from GE.

**WHEREFORE**, BNE objects to the Grouped Parties' motion to compel. BNE appropriately objected to the specific interrogatories propounded by the Grouped Parties and therefore the Grouped Parties' motion to compel or, in the alternative, motion to strike should be denied.

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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