

**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 22, 2011

**OBJECTION TO MOTION TO STRIKE
PRE-FILED TESTIMONY OF GLENN CHALDER**

FairwindCT, Inc., Susan Wagner and Stella and Michael Somers (the “Grouped Parties”), hereby object to the Motion to Strike Pre-Filed Testimony of Glenn Chalder, dated April 19, 2011, filed by Petitioner, BNE Energy Inc. (“BNE”). In its motion, BNE asks that the Council strike Mr. Chalder’s testimony as “baseless, incorrect, and misleading” because Mr. Chalder’s testimony provides a comprehensive evaluation of the visual impacts that will be caused by BNE’s proposed turbines that are subject to this petition. Contrary to BNE’s claims, Mr. Chalder’s testimony provides an accurate assessment of the visual impacts of BNE’s petition and properly can be considered by the Council in its adjudication of such petition.

In support of this Objection, the Grouped Parties state the following:

1. On April 7, 2011, Mr. Chalder submitted pre-filed testimony in this matter and in Petition No. 983. In his testimony, Mr. Chalder provided a visual simulation of all of BNE’s proposed turbines and further explained the methodology used in composing that simulation.
2. On April 19, 2011, BNE filed its motion to strike Mr. Chalder’s testimony from the record. In its motion, BNE argues that Mr. Chalder’s testimony is misleading

in that it refers to BNE's seven proposed turbines. BNE further claims that Mr. Chalder's testimony incorrectly states that BNE has not provided the dimensions of its proposed turbines and that, apparently, Mr. Chalder's testimony should be stricken on that basis.

3. Because BNE's arguments are meritless, the Council should deny BNE's motion.
4. First, notwithstanding BNE's efforts to compartmentalize the effects of both pending Colebrook petitions, the fact remains that BNE has proposed two sets of industrial wind turbines within half a mile of one another. Therefore, even though this specific petition governs four proposed wind turbines (including one alternate location) at the Winsted-Norfolk Road site, the visual impacts that will be felt as a result of those four turbines cannot logically be taken in isolation. It is only the fault of the petitioner that the proposed turbines from both of its petitions are visible from Rock Hall, and Mr. Chalder's testimony merely puts the proposed wind turbines subject to this petition into the greater context of what BNE proposes to do to Colebrook overall. BNE should not be permitted to stifle evidence demonstrating this fact simply because it is inconvenient and harmful to its case, and the Council should therefore deny BNE's motion.
5. Further, the need to consider cumulative effects is evident from the statutory scheme governing the Council's jurisdiction. For example, General Statutes § 16-50p, establishing procedures for certification decisions, specifically requires the Council to consider "[t]he nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities" (emphasis added).

While the Grouped Parties recognize that this is not a certification proceeding, the principle is generally applicable: To the extent that the Council is considering environmental, including visual, effects of BNE's proposed turbines, it must do so in light of currently existing and proposed facilities. Moreover, pursuant to the Council's articulation in Petition No. 980 that specifically stated that the Council's decision "is governed by the criteria set forth under C.G.S. § 16-50p." (Petition No. 980, Motions Memo dated Apr.8, 2011.) BNE's alternative is nothing more than willful ignorance.

6. Finally, BNE's argument that Mr. Chalder's testimony should be stricken because it allegedly incorrectly states that BNE has not provided dimensions for the subject wind turbines is unavailing. Contrary to BNE's claims, FairwindCT's third set of interrogatories, which to date have not been answered by BNE, requested the dimensions of the proposed turbines. Accordingly, at the time of drafting, Mr. Chalder had not received the precise dimensions of the proposed wind turbines. Regardless, BNE does not attempt to explain why the single alleged mistake with respect to BNE's willingness to provide turbine dimensions, even taken as true, warrants striking the entirety of Mr. Chalder's testimony, when BNE will obviously have the opportunity to cross-examine Mr. Chalder on this topic during the hearing on the petition.

WHEREFORE, for the foregoing reasons, the Grouped Parties object to BNE's motion to strike Mr. Chalder's pre-filed testimony.

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CERTIFICATION

I hereby certify that a copy of the foregoing document was delivered by first-class mail and e-mail to the following service list on the 22nd day of April, 2011:

Carrie L. Larson
Paul Corey
Jeffery and Mary Stauffer
Thomas D. McKeon
David M. Cusick
Richard T. Roznoy
David R. Lawrence and Jeannie Lemelin
Walter Zima and Brandy L. Grant
Eva Villanova

and sent via e-mail only to:

John R. Morissette
Christopher R. Bernard
Joaquina Borges King


Denise L. Myron