

**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

May 5, 2011

REPLY TO OBJECTION TO MOTION TO MODIFY PROTECTIVE ORDER

FairwindCT, Inc., Susan Wagner and Stella and Michael Somers (the “Grouped Parties”), hereby reply to the Objection to Motion to Modify Protective Order, dated May 4, 2011, filed by Petitioner, BNE Energy Inc. (“BNE”).

In support of its objection, BNE states that the Grouped Parties did not avail themselves of the opportunity to view the material filed under seal by BNE until April 28, 2011, implying that this alleged inaction is reason to deny the Grouped Parties’ motion to modify. Contrary to BNE’s argument, the Grouped Parties could not have viewed the sealed materials filed in this petition prior to April 28, 2011 – the date on which counsel for the Grouped Parties did in fact review those materials – because it was not until that date that the Council approved the protective order governing BNE’s submissions. Indeed, BNE’s objection seems to recognize this, observing that “on April 28, 2011, the Council granted BNE’s protective order.” (Obj. at 2.)

On that very day, counsel for the Grouped Parties reviewed the sealed materials. Upon confirming the nature of those documents filed under seal, counsel filed a motion to modify the protective order the next day. What BNE fails to understand is that the Grouped Parties obviously could not file a substantive motion to modify the protective order until: (1) the protective order was in place; and (2) the Grouped Parties knew what it was that they were objecting to. Once both of

those conditions were met, the Grouped Parties promptly filed their motion to modify the protective order.

Accordingly, there is nothing about the timing of the Grouped Parties' motion that warrants denial of that motion, and for the reasons stated in more detail in the Grouped Parties' objection and motion, dated April 29, 2011, the protective order in this case should be modified.

By: 

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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 5th day of May, 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


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