



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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Daniel F. Caruso

Chairman

DATE: March 7, 2011

TO: Parties and Intervenors

FROM: Linda Roberts, Executive Director 

RE: **PETITION NO. 980** - BNE Energy, Inc. petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the construction, maintenance, and operation of a 3.2 MW Wind Renewable Generating facility located at 178 New Haven Road, Prospect, Connecticut.

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During the evidentiary hearing for the above-referenced matter on February 24, 2011, the Connecticut Siting Council (Council) ruled on the following motions and objections:

- 1. Save Prospect Corp. (SPC) Request for Relief dated January 14, 2011.**  
SPC's Request for Relief was denied. Pursuant to C.G.S. §4-176, during a regular meeting of the Council held on January 6, 2011, the Council decided to hold a public hearing on this petition. The Council does not have the authority to issue a moratorium.
- 2. FairwindCT, Inc. (Fairwind) Notice of CEPA Intervention as a Party dated February 7, 2011.**  
Fairwind's Request to Intervene under CEPA was granted.
- 3. SPC Notice of CEPA Intervention as a Party dated February 11, 2011.**  
SPC's Request to Intervene under CEPA was granted.
- 4. Fairwind's Objection to Pre-hearing Procedure dated February 8, 2011.**  
Fairwind's Objection to the Pre-hearing Procedure was denied. The objection was based on the February 16, 2011 pre-file deadline in the Council schedule for this matter. A second pre-file deadline of March 8, 2011 has been set in accordance with scheduled continued hearing dates. The continued hearing dates were not set as of the date of the pre-hearing conference held on February 4, 2011 or as of the date Fairwind filed its objection. The continued hearing dates were announced on February 14, 2011.
- 5. Eric Bibler's Request for Intervenor Status dated February 14, 2011.**  
Mr. Bibler's Request for Intervenor Status was granted. Mr. Bibler is also listed as a witness for SPC. Therefore, the Council exercised its statutory discretion under C.G.S. §16-50n(c) to group Mr. Bibler with SPC.
- 6. Connecticut Water Company's Request for Party Status dated February 16, 2011.**  
The Connecticut Water Company's Request for Party Status was granted.



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7. **BNE Energy, Inc. (BNE) Motion for Protective Order dated February 16, 2011.**  
BNE's Motion for Protective Order was granted. The motion related to the filing under seal of BNE's raw wind data, GE setback requirements and the GE Mechanical Loads Assessment based on the proprietary nature of the information. GE is not a party to this proceeding.  
  
Furthermore, the Council voted to strike SPC Exhibit #68 (also shown as #51 on the Hearing Program dated February 24, 2011) entitled, "GE Setback Requirements." The document is designated on every page: "Confidential and Proprietary – Do Not Copy Without Consent." SPC did not include a copy of a consent form from GE to distribute the document. GE is not a party to this proceeding nor is a GE representative listed as a witness to verify the exhibit for SPC.
8. **Fairwind Motion to Delay Proceedings dated February 18, 2011.**  
Fairwind's Motion to Delay the Proceedings was denied. The second pre-filed deadline of March 8, 2011 provides Fairwind and other participants an opportunity to review the information that is the subject of the motion and to prepare for cross examination of the petitioner on that information.
9. **Fairwind Motion to Compel Interrogatory Responses or in the Alternative to Strike dated February 18, 2011.**  
Fairwind's Motion to Compel Interrogatory Responses was denied and Fairwind's (in the alternative), Motion to Strike was denied.
10. **BNE's Request for List of SPC members dated February 22, 2011.**  
BNE's Request for a list of SPC members was denied.
- 11 – 15. **BNE's Motion to Strike SPC Pre-filed Testimony of Witnesses Pressman, McCann, Bronzaft and Philips, SPC Administrative Notice and SPC Exhibits dated February 23, 2011.**  
BNE's Motions to Strike SPC's Pre-filed Testimony, Administrative Notice and Exhibits were denied.
16. **Fairwind Objection to Notice of Hearing Procedure and to Hearing Program dated February 23, 2011.**  
Fairwind's Objection to the Notice of Hearing Procedure and to the Hearing Program was denied. R.C.S.A. §16-50j-30 allows the Council to limit the number of witnesses and time for testimony during the course of any hearing. R.C.S.A. §16-50j-25 requires that all parties and intervenors have an opportunity to cross examine on all issues to be considered by the Council. The relevant issues to be considered by the Council are public health and safety, environmental impacts and facility operation under Conn. Gen. Stat. §16-50g and 16-50p. Furthermore, the hearing program to which Fairwind objected was a preliminary, draft hearing program circulated for review among the proceeding participants on Tuesday, February 22, 2011.
17. **Fairwind Motion to Strike Certain Evidence from the Record dated February 23, 2011.**

Fairwind's Motion to Strike was denied.

During the evidentiary hearing for the above-referenced matter on March 3, 2011, the Council denied Fairwind's Motion for the Council to Issue a Subpoena to a representative from GE dated February 25, 2011.

The next evidentiary hearing scheduled for March 15, 2011 shall commence with cross examination of parties and intervenors by the Council, petitioner and other parties and intervenors to accommodate travel plans for out of state witnesses. Cross examination of the petitioner by the Council, parties and intervenors shall resume at the next scheduled evidentiary hearing date on March 31, 2011.