

**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 12, 2011

**FAIRWINDCT, INC.’S THIRD SET OF INTERROGATORIES
TO BNE ENERGY INC.**

FairwindCT, Inc., Susan Wagner and Stella and Michael Somers (the “Grouped Parties”), request that the petitioner, BNE Energy Inc. (“BNE”) respond to the following interrogatories:

1. Are you now seeking approval only for turbines with a blade length of 41.25 meters?
2. Are you now seeking approval only for the “alternate” location of Turbine 1 submitted with the pre-filed testimony of Curtis Jones?
3. How many Mechanical Loads Assessments were conducted for this site? Please provide copies of all Mechanical Loads Assessments conducted for this site.
4. Please provide dimensions for the 1.6-82.5 turbine, including width of the turbine tower, height, width and depth of the nacelle, and the width of the blades at the widest point.
5. Please provide dimensions for the 1.6-100 turbine, including width of the turbine tower, height, width and depth of the nacelle, and the width of the blades at the widest point.

6. In response to Question 1 of FairwindCT's First Set of Interrogatories, which asked for the GPS coordinates of the proposed turbine locations, you provided only three sets of coordinates. Please also provide the coordinates for your originally proposed location of Turbine 1.

7. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction bird surveys are currently underway to investigate migration of raptors and songbirds during the spring migration period." Please confirm that these surveys are currently underway on the Colebrook North site and state when the surveys began.

8. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction bird surveys are currently underway to investigate migration of raptors and songbirds during the spring migration period." Please state the timeframe in which these surveys will be conducted, explain the methodology used for these surveys and identify the entity and individuals conducting these surveys.

9. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction bird surveys are currently underway to investigate migration of raptors and songbirds during the spring migration period." When will the results of these pre-construction spring migration bird surveys be reported in final form? Will those results be made public?

10. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction bird surveys are also proposed for the summer breeding season and the fall migration season." Please confirm that these surveys are proposed for the Colebrook North site.

11. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction bird surveys are also proposed for the summer breeding season and the fall migration season." Please state the timeframe in which these surveys will be conducted, explain the methodology used for these surveys and identify the entity and individuals who will conduct these surveys.

12. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction bird surveys are also proposed for the summer breeding season and the fall migration season." When will the results of these pre-construction summer breeding and fall migration bird surveys be reported in final form? Will those results be made public?

13. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction field surveys will be completed during November 2011." Please confirm that these surveys are proposed for the Colebrook North site.

14. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction field surveys will be completed during November 2011." Please describe the nature of these "field surveys" and the methodology that will be used in the surveys and identify the entity and individuals who will conduct these surveys.

15. In response to Question 22 of FairwindCT's First Set of Interrogatories, you stated "[p]re-construction field surveys will be completed during November 2011." When will the results of these field surveys be reported in final form? Will those results be made public?

16. In his pre-filed testimony dated March 25, 2011, David Tidhar states that “additional bird studies will be completed at both Colebrook North and South between March and November, 2011.” Is Mr. Tidhar referring to the pre-construction spring migration bird surveys?

17. In response to Question 38 of FairwindCT’s First Set of Interrogatories, you provided a chart of the requested distances that included calculations for only the “alternative” location proposed for Turbine 1. Please provide the same information for the original proposed location for Turbine 1 that is reflected in your petition.

18. In response to Question 39 of FairwindCT’s First Set of Interrogatories, you provided a chart of the requested distances that included calculations for only the “alternative” location proposed for Turbine 1. Please provide the same information for the original proposed location for Turbine 1 that is reflected in your petition.

19. In response to Question 40 of FairwindCT’s First Set of Interrogatories, you directed FairwindCT to review a response to one of the Council’s interrogatories. That interrogatory did not request an explanation of your methodology or copies of calculations used. Please provide an explanation of your methodology and copies of any calculations used to measure wind speed at 100 meters.

20. In response to Question 41 of FairwindCT’s First Set of Interrogatories, you again directed FairwindCT to review a response to one of the Council’s interrogatories. That interrogatory did not ask you to provide the number of days of wind data collected at the Colebrook North site. Please provide the number of days of wind data that you have collected at the Colebrook North site, using the sodar unit or by other means.

21. Please provide copies of all data collected from the sodar unit located on the Colebrook North property.

22. In response to Question 46 in FairwindCT's First Set of Interrogatories, you referred to a 13.4-month period of wind data collection and did not provide the information by days, as requested. Please provide the number of days on which wind speeds were lower than 3.5 m/s for the period 1/1/09 through 12/31/09 and 1/1/10 through 12/31/10, for the wind data collected and used in your Colebrook North petition.

23. Please provide the number of hours on which wind speeds were lower than 3.5 m/s for the period 1/1/09 through 12/31/09 and 1/1/10 through 12/31/10, for the wind data collected and used in your Colebrook North petition.

24. Of the days on which you have collected wind data by sodar unit or other means at the Colebrook North site, how many days had wind speeds lower than 3.5 m/s? How many days had wind speeds higher than 25 m/s?

25. Of the hours in which you have collected wind data by sodar unit or other means at the Colebrook North site, for how many days hours were wind speeds lower than 3.5 m/s? How many hours had wind speeds higher than 25 m/s?

26. Question 46 of FairwindCT's First Set of Interrogatories asked for a definition of "fall zone requirements." Your lengthy response to that interrogatory did not answer the question. Again, please define the phrase "fall zone requirements."

27. Please provide a list of all property lines, residences and related structures, roads, driveways, located within 898 feet of each proposed turbine location, including both the original and the "alternative" proposed locations for Turbine 1.

28. In response to Question 43 of FairwindCT's First Set of Interrogatories, you attached what appears to be three copies of the same approval letter. All three letters reference Turbine 3. Do you have approval letters for Turbines 1 and 2? If so, please provide copies. If not, have you requested them?

29. Do you have FAA approval for the "alternative" proposed location of Turbine 1? If not, have you requested approval?

30. Question 27 of FairwindCT's Second Set of Interrogatories contained a typographical error. Please confirm that you have provided a copy of any contract or agreement that requires you to maintain confidentiality of certain information produced or owned by GE that you have filed under seal in Petition No. 983.

31. Does the confidentiality agreement between BNE and GE contain a provision excluding from protection information that has been put into the public domain through no fault of BNE?

32. In response to Question 31 of FairwindCT's Second Set of Interrogatories, you stated that you will be conducting a post-construction bird fatality monitoring survey. Will this survey be conducted at the Colebrook North site? Please describe the methodology of this survey, identify the entity and individuals who will be conducting the survey and state the timeframe for the survey.

33. In response to Question 31 of FairwindCT's Second Set of Interrogatories, you stated that "[a]dditional surveys will be completed at the Colebrook South site during early breeding season (mid-April to mid-May) during 2011." Does this statement refer to additional bird surveys or additional bat surveys? Does this statement mean that no additional surveys will be conducted at the Colebrook North site during this time?

34. In response to Question 31 of FairwindCT's Second Set of Interrogatories, you stated that "[a]dditional bird use surveys will be completed at Colebrook South during the spring and fall migration periods of 2011." Does this statement mean that no additional bird use surveys will be conducted at the Colebrook North site during the spring and fall migration periods of 2011?

35. In response to Question 38 of FairwindCT's Second Set of Interrogatories, you stated "To our knowledge only three broadwinged hawks have been documented as fatalities at 76 operating wind facilities in the US (WEST unpublished data)." Please provide copies of that unpublished data. If you refuse to do so, please provide the names, locations, turbine type and size and time of year for the wind facilities at which those three broadwinged hawks died.

36. In response to Question 40 of FairwindCT's Second Set of Interrogatories, you stated that "7.85 acres of forest will be permanently impacted by the Project." Does this statement refer to the acreage impacted as the project was originally proposed, or the acreage impact of the revised plans? Please provide the acreage impact and the requested graphic representation for both the original site plans and the revised site plans.

37. Will Michael Klemens be conducting an on-site study for the smooth green snake at the Colebrook North site?

38. Please provide the approximate date on which the results of all of Michael Klemens' on-site studies for the Colebrook North site will be reported in final form.

39. Please provide the approximate date on which the results of the "pre-construction acoustic bat surveys" being conducted by Western EcoSystems Technology, Inc. ("WEST") at the Colebrook North site will be reported in final form.

40. Please describe the methodology of these "pre-construction acoustic bat surveys," including but not limited to the numbers, locations and heights of the Anabat detectors that will be used.

41. Please provide the names and qualifications of the WEST employees who will be conducting the "pre-construction acoustic bat surveys" on the Colebrook North site.

42. Will the additional pre-construction bat surveys on the Colebrook North site include habitat assessment for forest-roosting bats?

43. Will the post-construction bat fatality and acoustic monitoring on the Colebrook North site include habitat assessment for forest-roosting bats?

44. Who will conduct the post-construction bird monitoring you propose to do at Colebrook North?

45. Who will conduct the post-construction bat acoustic monitoring you propose to do at Colebrook North?

46. Who will conduct the post-construction bat fatality monitoring you propose to do at Colebrook North?

47. Will the results of the post-construction bird, bat fatality and bat acoustic monitoring you propose to do be made easily accessible to the general public and to local conservationists? Will the results be posted online?

48. How many members were on the WEST field team in Connecticut for the 2010 bat and bird surveys in Colebrook? How many worked on the 2010 bird survey? How many worked on the 2010 bat acoustic surveys?

49. In response to Question 48 of FairwindCT's Second Set of Interrogatories, you stated that Jeff Gruver, who led West's acoustic bat analysis, "has completed at least an estimated 100 acoustic bat analyses for proposed and existing wind facilities." Of those 100 projects, how many included Anabat monitoring conducted on a met tower? Of those projects that included Anabat monitoring conducted on a met tower, how many resulted in damage to the meteorological equipment?

50. Did Jeff Gruver personally conduct any component of the bat acoustic setup or call analysis at the Colebrook Wind Resource Area ("CWRA")?

51. In response to Question 51 of FairwindCT's Second Set of Interrogatories, you stated that the sensitivity levels of the Anabat detectors were set at 5.5 or 6, "[d]epending on the environment in which the unit was placed." Please explain this statement.

52. In response to Question 56 of FairwindCT's Second Set of Interrogatories, BNE states that the SM2Bat unit was placed at the edge of the beaver pond because "[o]pen water is considered a feature attractive to bats for foraging, and placement of the SM2Bat unit at this location increased potential for recording bat species that may occur in the Project area." Given this statement, why did WEST claim in its interim report (Petition, Exhibit L) that the "CWRA is not in the vicinity of any known bat colonies or features likely to attract large numbers of bats" (emphasis added)?

53. In response to Question 57 of FairwindCT's Second Set of Interrogatories, BNE lists the Cape Vincent Wind Project in New York as a site that used a similar acoustic monitoring protocol during the pre-construction site assessment. Please provide details of the sampling protocol at that site, including the timing of the survey, the sampling height of acoustic monitors, and the total sampling effort (in detector-nights).

54. In response to Questions 58, 59 and 60 of FairwindCT's Second Set of Interrogatories, you objected on the basis that this project need not comply with the pre-construction monitoring guidelines in place in Pennsylvania, New York and New Jersey. Please confirm that you did not consult out-of-state pre-construction monitoring guidelines, despite the absence of such guidelines in Connecticut.

55. Given that BNE claims that the data analysis approach used at the CWRA is similar to other monitoring projects conducted at wind development sites, please provide a citation for any acoustic monitoring project in the eastern United States that was not conducted by WEST and that uses the MF acoustic group.

56. Please provide the complete citation for “Brooks (2011)” referenced in response to Question 65 of FairwindCT’s Second Set of Interrogatories.

57. In response to Questions 74, 76, 77, 78 and 79 of FairwindCT’s Second Set of Interrogatories, you stated that you have committed to complete post-construction bat fatality monitoring and post-construction acoustic monitoring surveys, but did not specify the location of that post-construction work. Please confirm that the post-construction fatality monitoring and acoustic monitoring will be conducted at the Colebrook North site.

58. In response to Question 74 of FairwindCT’s Second Set of Interrogatories, you stated twice: “Importantly, the study was completed during the period in which most bat fatalities have been documented as wind turbine collisions and the period in which bat activity is greatest.” Please point us to literature or guidelines that indicate the period of time in which you conducted your bat acoustic monitoring survey was the appropriate period of time for such a survey.

59. In response to Question 79 in FairwindCT’s Second Set of Interrogatories, which asked you to justify why no bat activity monitoring was conducted at the Colebrook North site given the presence of a perennial flowing water system and large diameter hardwood trees that are not present at the Colebrook South site, you confirmed that no such monitoring was done in 2010 and again referred to the monitoring that will be done at a later date. Please provide a response to the question by explaining why you did not conduct monitoring at the Colebrook North site in 2010.

60. Please confirm that the revised site plans, stormwater management plan and erosion and sediment control plan attached to the prefiled testimony of Curtis Jones are the plans for which BNE is seeking the Council's approval.

61. If you are still seeking approval for the site plans, stormwater management plan and erosion and sediment control plan included in Exhibits F, G and H to the petition, please respond to Questions 91-99, 100-101, 103-106, 108-111, 117-120, 122, 124-129, 131-134, 136-139 and 141 of FairwindCT's Second Set of Interrogatories based on the site plans in Exhibit F.

62. If you are no longer seeking approval for the site plans, stormwater management plan and erosion and sediment control plan included in Exhibits F, G and H, why have you not withdrawn those exhibits from your petition?

63. Does your response to Question 86 of FairwindCT's Second Set of Interrogatories refer to the original site plans or the revised site plans? Please provide a response for both the original site plans and the revised site plans.

64. Does your response to Question 89 of FairwindCT's Second Set of Interrogatories refer to the original site plans or the revised site plans? Please provide a response for both the original site plans and the revised site plans.

65. Does your response to Question 98 of FairwindCT's Second Set of Interrogatories refer to the original site plans or the revised site plans? Please provide a response for both the original site plans and the revised site plans.

66. Does your response to Question 107 of FairwindCT's Second Set of Interrogatories refer to the original site plans or the revised site plans? Please provide a response for both the original site plans and the revised site plans.

67. Does your response to Question 119 of FairwindCT's Second Set of Interrogatories refer to the original site plans or the revised site plans? Please provide a response for both the original site plans and the revised site plans.

68. Does your response to Question 131 of FairwindCT's Second Set of Interrogatories refer to the original site plans or the revised site plans? Please provide a response for both the original site plans and the revised site plans.

69. Does your response to Question 132 of FairwindCT's Second Set of Interrogatories refer to the original site plans or the revised site plans? Please provide a response for both the original site plans and the revised site plans.

70. In response to Question 13 of the Council's Pre-Hearing Interrogatories, Set One, you stated that "BNE is following GE's recommended setbacks for wind turbines adjacent to uninhabited land to ensure that the rotor blades are entirely on BNE property." Does GE have different recommended setbacks for wind turbines adjacent to uninhabited property than it does for inhabited property? If so, please explain how the recommendations differ and how GE defines "uninhabited" and "inhabited."

71. Please provide GE's recommended setbacks for uninhabited land discussed in the preceding question and referenced in your response to the Council's interrogatories.

72. Question 25 in the Council's Pre-Hearing Interrogatories, Set One, asked you the "approximate distance that parts of the blades could be thrown from a turbine" and asked you to provide calculations regarding that distance. You did not provide that information in your lengthy response. Please do so.

73. Does the "final" bat report attached to the prefiled testimony of David Tidhar replace the "interim" bat report attached to the petition as Exhibit L? If so, why have you not withdrawn Exhibit L from your petition?

74. In Question 5 of Mr. Tidhar's prefiled testimony, he refers to "bat fatality patterns" observed during post-construction monitoring projects "[a]t operating commercial wind-energy facilities located within the region within similar forest dominated landscapes (e.g., Noble Ellenberg NY, Noble Clinton NY, Maple Ridge NY, Lempster NH, Stetson Mountain ME and Mars Hill ME)." For each of those six listed facilities, please provide the type, height and number of the turbines located on the site and please provide the approximate dates of the post-construction monitoring studies referenced.

75. Please provide the information regarding "the equipment used to transport the components to the erection location and their specific requirements for the road surface and the clearances required" and "the cranes used for the erection and installation process" reviewed by Curtis Jones and referenced in his prefiled testimony.

76. Please identify the “[c]onstruction companies with experience in the erection and installation of wind turbines” and “transportation engineering firms providing modeling assistance for blade transport vehicles” consulted by Mr. Jones or other BNE representatives, as referenced in Mr. Jones’ prefiled testimony, and please provide copies of the information provided by those companies and firms.

77. What studies or assessments have been conducted by BNE regarding the capacity of the local town roads, including Rock Hall Road, to bear the weight of the loads associated with transporting and delivering the turbine components and all associated equipment, such as cranes?

78. Please provide computations showing post-development peak flows at the wetland crossing for the 2-, 10-, 25-, 50- and 100-year storms, as well as the capacity of the culvert to accommodate those flows.

79. Please provide a drainage area map and calculation of the existing and proposed drainage areas tributary to the proposed wetland crossing.

80. Where will sanitary and storage facilities be located for the site?

81. Please reconcile the discrepancy between the statements in the petition that the site will be returned to its pre-construction state and the permanent changes shown on the post-construction grading and restoration plans.

82. Please provide the deep soil testing and infiltration rate data required by the 2004 Stormwater Quality Manual for the proposed stormwater treatment facilities.

83. Please provide documentation demonstrating that the design assumptions for the erosion control and stormwater management measures shown on the plans.

84. What is the reasonable area around the proposed tower, laydown and assembly areas that must be cleared and/or graded to allow for the construction activities (Sheet C-500)?

Note that this question does not ask you to provide the entire cleared area on the site.

85. What is the width of the right of way that must be cleared and maintained to install the overhead electric lines from Rock Hall Road to the collector yard? Please confirm that this was not accounted for in the disturbed area calculations.

86. Which plan sheets show the grading, outlet controls and energy dissipation devices for the permanent stormwater basins?

87. What criteria and design storm were used to design the permanent diversions shown on the plans? Please direct us to the calculations that demonstrate that the diversions meet the requirements of the 2002 Erosion and Sediment Control Guidelines.

88. Why do the roadside ditch check dams still fail to meet the design criteria of the 2002 Erosion and Sediment Control Guidelines?

89. Do the drainage computations account for reduced infiltration capacity of the crane road and access road due to compaction by heavy vehicle traffic?

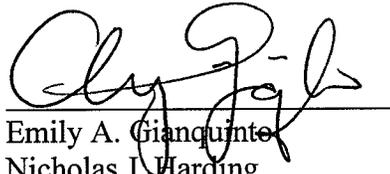
90. How much material will be imported to the site and how much will be exported, in terms of the amount of process stone, aggregate, gravel, sand and special soil mixes that will be required to construct the stormwater treatment basins? Please note that this question is not asking for the net cut and fill needed. Has this volume of material been included in the calculations of the truck traffic required to complete construction?

91. Please explain the note "excludes segregated runoff" in the water quality volume tables in Appendix D of the 3.14.2011 revised Stormwater Management Plan.

92. The sizing calculations for the temporary sediment traps appear to be based on several assumptions. Please provide documentation as to the validity of the assumed design parameters.

93. The design calculations for the permanent diversions appear to be based on several assumptions. Please provide documentation as to the validity of the assumed design parameters.

By:



~~Emily A. Gianquinto~~
Nicholas J. Harding
Reid and Riege, P.C.
One Financial Plaza, 21st Floor
Hartford, CT 06103
Tel. (860) 278-1150
Fax. (860) 240-1002

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 12th day of April, 2011:

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

and a copy was emailed to:

John R. Morissette
Christopher R. Bernard
Joaquina Borges King



Emily A. Gianquinto