

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Petitions of BNE Energy Inc. for a
Declaratory Ruling for the Location,
Construction and Operation of 4.8 MW
Wind Renewable Generating Projects on
Flagg Hill Road in Colebrook,
Connecticut (“Wind Colebrook South”)
and Winsted-Norfolk Road in Colebrook,
Connecticut (“Wind Colebrook North”)

Petition Nos. 983 and 984



March 29, 2011

**MOTION FOR COUNCIL TO ISSUE SUBPOENA BY OF FAIRWINDCT, INC.,
STELLA AND MICHAEL SOMERS AND SUSAN WAGNER**

Pursuant to the Siting Council’s pre-filing deadlines and the Council’s order on February 14, 2011 regarding grouping of parties, FairwindCT, Inc. (“FairwindCT”), Stella and Michael Somers (the “Somers”) and Susan Wagner (collectively, the “Grouped Parties”), the Grouped Parties hereby submit the within motion requesting that the Siting Council issue a subpoena pursuant to Connecticut General Statutes § 4-177b, directing Michael Guski, Principal of Epsilon Associates (“Epsilon”), to testify at the April 14, 2011, evidentiary hearing regarding any analysis, advice, or assistance provided by Epsilon to the Council in considering the above-captioned petitions. The Grouped Parties further move the Council to instruct Guski to bring with him any and all documents from the Epsilon file relating to the above-captioned petitions. In support of this motion, the Grouped Parties states the following:

1. According to multiple sources – including a letter dated March 14, 2011, from the Department of Environmental Protection in Petition 980, an article dated March 26, 2011, in the Waterbury Republican-American, and the inclusion of an Epsilon employee on the distribution list in Petition 980 – it appears that the Council has

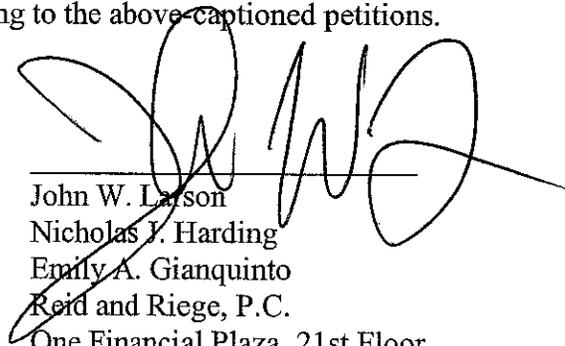
employed the assistance of Epsilon in determining the propriety of the proposed wind turbines that are the subject of Petitions 980, 983, and 984.

2. On February 24, 2011, an attorney for FairwindCT submitted a request pursuant to the Freedom of Information Act, Connecticut General Statutes § 1-210(a), seeking a copy of the executed contract between the Council and Epsilon. On February 28, 2011, the Council provided a copy of the contract.
3. Pursuant to Section Four of the contract, Epsilon agreed to be “available to attend, cross-examine, and testify at public hearings as an expert witness, as necessary.”
4. Pursuant to General Statutes § 4-177b, “[i]n a contested case, the presiding officer may . . . subpoena witnesses and require the production of records, physical evidence, papers and documents to any hearing held in the case.”
5. Accordingly, the Siting Council has the authority to compel Guski to provide testimony regarding Epsilon’s work on these petitions, pursuant to Connecticut General Statutes § 4-177b and the contract between the Council and Epsilon. On the other hand, the Grouped Parties have no procedural mechanism by which they can compel Guski, or Epsilon generally, to appear to testify at the evidentiary hearing in light of the fact that Epsilon is an out-of-state entity.
6. The parties to this petition are entitled to review and, if necessary, cross-examine Guski regarding the work performed by Epsilon for the Council and any conclusions reached and recommendations made by Epsilon with respect to siting the proposed wind turbines. Such evidence, which will be produced as part of the

record in these petitions, is necessary for the Council's full and fair consideration of BNE's proposals.

WHEREFORE, the Grouped Parties respectfully requests that the Siting Council issue a subpoena pursuant to Section 4-177b of the General Statutes, directing Michael Guski to testify at the April 14, 2011, evidentiary hearing regarding any analysis, advice, or assistance provided by Epsilon to the Council in considering the above-captioned petitions and to produce any and all documents from the Epsilon file relating to the above-captioned petitions.

By: _____



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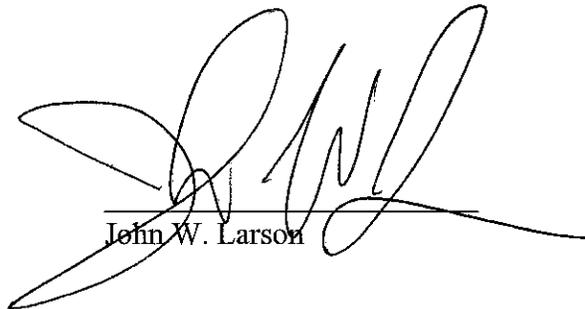
CERTIFICATION

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 29th day of March, 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



John W. Larson