

**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

March 28, 2011

MOTION TO EXTEND DEADLINES

FairwindCT, Inc., Susan Wagner, and Stella and Michael Somers (collectively, the “Grouped Parties”) hereby move the Council to extend the deadline for its decision on the above-captioned petition, currently set for June 11, 2011, as well as any interim deadlines related to draft filings, currently unscheduled. In support of this motion, the Grouped Parties state the following:

1. On February 2, 2011, the Council published the schedule for Petitions 983 and 984. This schedule included a March 8, 2011 deadline for the exchange of interrogatories between participants, a deadline for pre-filed testimony of March 15, 2011, and a decision deadline of June 11, 2011. Due dates for draft findings of fact, and for the Council’s draft opinion, decision, and order were left to be determined.
2. On March 9, 2011, the petitioner, BNE Energy, Inc. (“BNE”), filed a motion to modify the pre-filing deadline in Petition 984, seeking to move that deadline to March 25, 2011.
3. On March 15, 2011, the Grouped Parties filed an objection to BNE’s motion.

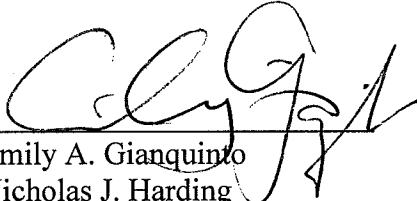
4. On March 15, 2010, the Grouped Parties and most other parties and intervenors in Petition No. 984 filed their pre-filed testimony, in compliance with the Council's scheduling order.
5. On March 16, 2011, Brandy Grant and Walter Zima, parties to Petition No. 984, also objected to BNE's motion. On that same date, Robin Hirtle and Kristin and Benjamin Mow, parties to Petition No. 984, also objected to BNE's motion.
6. On March 17, 2011, the Council granted BNE's motion to extend the pre-filed deadline over the objections of the Grouped Parties, Zima/Grant, Hirtle and the Mows.
7. In light of the Council's decision to push back the pre-filed deadline in Petition No. 984, a decision made at BNE's urging and over the objections of several other parties to this petition, the Grouped Parties submit that all subsequent deadlines similarly should be modified and extended by ten days.
8. BNE's extension has caused more than a week's delay in the other parties' review of BNE's responses to interrogatories and pre-filed testimony related to Petition No. 984 and consequently has deprived the Council and the parties the opportunity to review that material during such delay. This delay caused the BNE material to be filed after commencement of the proceedings in Petition Nos. 983/984, including the public comment portion of those proceedings. This delay also has prevented the parties from disclosing the BNE materials to their expert witnesses.

9. The effect of BNE's delay is compounded by the fact that BNE filed on March 25, 2011 a new set of site plans for its project, including an "alternative" location for one of the turbines, which may be moved more than 800 feet from its originally proposed location. BNE also disclosed a new witness related to those new plans and to its new erosion control plan and new stormwater prevention plan.
10. As a result of the delay caused by BNE's motion, subsequent deadlines – if not modified in accordance with the Council's previous modification of the pre-filed deadline – will unduly compress the schedule for providing draft findings of fact and the Council's own draft and final decision on the petition.
11. Accordingly, in order to maintain the Council's original schedule, and to fairly allow the parties and the Council sufficient time within which to conform to such schedule, the Council should extend the final decision deadline and any other internal deadlines by the same ten-day period by which BNE successfully modified the pre-filed deadline in this petition.
12. Further, because BNE was the party that moved for the extension of time with respect to the pre-filed deadline, BNE cannot in fairness claim now that it is opposed to the same extension of time with respect to the final decision deadline, nor can BNE demonstrate any prejudice that it will suffer from such an extension.
13. The Grouped Parties note that although the Council repeatedly refers to its statutorily imposed 180-day deadline for decision regarding declaratory rulings, the General Statutes in fact provide that the 180-day deadline may be extended

with the consent of the parties. Section 4-176(i) provides: “If an agency does not issue a declaratory ruling within one hundred eighty days after the filing of a petition thereof, or within such longer period as may be agreed by the parties, the agency shall be deemed to have decided not to issue such ruling.”

WHEREFORE, the Grouped Parties move the Council to extend the deadline for decision on Petition No. 984 – as well as any interim deadline – by ten days. If all parties do not consent to such extension, the Grouped Parties move that the Council decide not to issue a declaratory ruling in this matter, pursuant to General Statutes § 4-176(i).

By:



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PROPOSED ORDER

Whereas, on February 2, 2011, the Council published the schedule for Petitions 983 and 984;

Whereas, this schedule included a March 8, 2011 deadline for the exchange of interrogatories between participants, a deadline for pre-filed testimony of March 15, 2011, and a decision deadline of June 11, 2011;

Whereas, on March 9, 2011, the petitioner filed a motion to modify the pre-filing deadline in Petition 984, seeking to move that deadline to March 25, 2011;

Whereas, the Council granted that motion;

Whereas, the Grouped Parties now ask that the Council extend all other dates related to Petition No. 984 by ten days;

IT IS HEREBY ORDERED that all deadlines previously announced in Petition No. 984 are hereby extended by ten days, including the Council’s own deadline for decision of June 11, 2011. In accordance with General Statutes § 4-176(i),

IT IS HEREBY FURTHER ORDERED that if any party to this petition for declaratory ruling objects to such extension, the Council will not issue a declaratory ruling in this matter, and these proceedings shall be concluded.

SO ORDERED:

CONNECTICUT SITING COUNCIL

By: _____

Date: _____

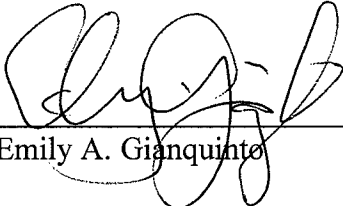
CERTIFICATION

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 28th day of March, 2011:

Carrie L. Larson
Paul Corey
Jeffery and Mary Stauffer
John R. Morissette
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



Emily A. Gianquinto