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June 16, 2010
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Thomas S. Burack, Chairman
NH Site Evaluation Committee
C/o Jane Murray, Secretary
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

References: 1) Application of Groton Wind, LLC; SEC Docket No. 2010-01
2) June 7, 2010 response from Groton Wind, LLC (“the applicant”) to intervention petitions filed by various persons and entities in the above referenced matter.

Dear Chairman Burack:

I have received the applicant’s response to intervention petitions relating to Docket No. 2010-01 referenced in #2 above. I have concerns with several of the positions outlined in the referenced response and wish to provide alternative perspectives on these issues for your consideration.

The applicant has requested that the petitions for intervention by Ms. Valdmanis, the Mazurs, Mr. Wetterer, Ms. Park, Ms. Lewis, Mr. Spring and the undersigned be denied. The rationale used by the applicant is based upon the opinions that follow.

The applicant attempts to build an argument that the Presiding Officer should interpret the applicable statute in conjunction with the associated administrative rules in such a way that would eliminate the flexibility of the Presiding Officer. RSA 541-A:32 II states the following:

“The presiding officer may grant one or more petitions for intervention at any time, upon determining that such intervention would be in the interests of justice and would not impair the orderly and prompt conduct of the proceedings.”

On pages 5 and 6 of the reference 2 response, the applicant suggests that the Legislature’s intention was to only allow the flexibility directed in RSA 541-A:32 II in the event that the deadlines documented in RSA 541-A:32 I (a) were missed – i.e. in the event of a late filing. However, as noted above, RSA 541-A:32 II makes no reference to late filings. The wording of the RSA is abundantly clear. It is my view that the words “at any time” mean precisely that. Further, the clear language of RSA 541-A:32 II gives maximum discretion to the Presiding Officer by using the word “may”, as opposed to the commanding word “shall” that was used in detailing the more restrictive conditions outlined in RSA 541-A:32 I. It is crystal clear that the intention of the Legislature in RSA 541-A:32 I was to restrict the Presiding

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Officer from rejecting petitions in the cases where conditions set forth in RSA 541-A:32 I (a), (b), and (c) were precisely followed, while allowing the Presiding Officer flexibility pursuant to RSA 541-A:32 II in those cases where the conditions set forth in Section I were not precisely followed. Had the legislature intended for this flexibility to relate strictly to the timing of application filing only, wording outlining this flexibility would have documented a link between the deadline requirements set forth in RSA 541-A:32 I (a) and Section II of the same RSA. However, this is not the case, as no link between Sections I and II is articulated in the plain language of RSA 541-A:32.

Rules are intended to provide more detailed instruction on the precise manner in which directives stipulated by statute are to be implemented. Under no circumstances are rules to be interpreted in such a way as to revise the statute. Nevertheless, the applicant attempts to argue that the rules documented in Site 202.11 (C) with respect to late filing of petitions should be interpreted in such a way as to result in precisely this inappropriate outcome. I believe that the Legislature fully intended to provide the Committee the full discretionary powers to permit intervention as it deemed appropriate and if it served the interests of justice. To do otherwise would unreasonably constrain the authority of the Committee and inappropriately limit the public's opportunity to participate.

After attempting to argue that the Presiding Officer must strictly enforce all requirements of RSA 541-A:32 I in order to grant a petition to intervene with the exception of the deadlines noted in RSA 541-A:32 I (a), the applicant attempts to argue that several petitions, including the petition of the undersigned, are not in compliance with the service requirement documented in 541-A:32 I (a). However, in the Order and Notice of Prehearing Conference, Site Visit and Public Information Hearing issued May 21, 2010, the SEC has already provided clarity on the precise method that must be followed in order for potential petitioners to satisfy the rules set forth for this docket. The order of May 21, 2010 states the following:

Petitions to intervene should be addressed to the Chairman of the Committee at the following address:

Thomas S. Burack, Chairman
New Hampshire Site Evaluation Committee
C/o New Hampshire Department of Environmental Services
29 Hazen Drive, PO Box 95
Concord, New Hampshire 03302-0095

I believe that it is reasonable for a potential intervening party to conclude that the directive above represented the SEC's position regarding the conditions that are necessary to meet the SEC's interpretation of the associated RSAs and administrative rules with respect to service of petitions. In the case of the undersigned's petition and in the case of several other

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petitions, the mandated procedure was followed precisely. I also respectfully point out that the applicant did not indicate that they failed to receive timely notification of pending petitions. Their only complaint outlined in their response of June 7, 2010 is that they received these petitions via electronic copy from the SEC as opposed to receiving them directly from the petitioners by mail. Clearly the applicant is attempting to split hairs with respect to the proper service of petitions.

In section 14, pages 6 and 7 of the reference 2 response, the applicant argues that the issues raised by the petitioners do not qualify them for intervention in this matter. The first argument poised by the applicant is their conclusion that none of the petitioners are direct abutters. With all due respect, it is preposterous to suggest that the mere fact that a narrow strip of land separates the construction site from a petitioners property line somehow voids the petitioners argument that a project of this magnitude affects “the petitioner’s rights, duties, privileges, immunities or other substantial interests” (RSA 541-A:32 I (a)). I need not remind the Committee that we are talking about twenty-four massive towers with spinning blades perched on ridgelines looming over our properties. The applicant also suggests on page 7 that “The Town [of Rumney] (through its Board of Selectmen and Attorney) can adequately represent the views and interests of the residents of Rumney.” In support of this position, the applicant cited pages 5 and 6 from an Order on Pending Motions from Docket No. 2009-02, dated March 24, 2010 relating to the Application of Laidlaw Berlin BioPower, LLC. The referenced order documents the denial of a petition to intervene by one Jonathan Edwards, a realtor in the City of Berlin. According to the order, Mr. Edwards argues “... he should be permitted to intervene in this docket because it may impact the quality of life in Berlin, and because he does not believe that the popularly elected officials and the City of Berlin and Coos County are truly representing the views of their constituents.”

The above referenced situation relating to docket 2009-02 is materially different from docket 2010-01 in the following ways: 1) The project in question involves an application to convert the use of a site that was formerly a pulp mill into a renewable energy (biomass) facility. Docket 2010-01 involves flattening the tops of a significant percentage of a pristine natural ridgeline overlooking our properties located in the beautiful Baker River Valley. The applicant proposes to do this in order to install some 24 windmills, each of which extends almost 400 feet high. 2) Applicants’ cited order makes no mention of any potential concern that Mr. Edwards might have from impacts to his personal property. Rather, the order merely documents that Mr. Edwards’ argument was that the project “may impact the quality of life in Berlin” and that he had “a fiduciary duty to his clients.” In the current case, it is crystal clear that the petitioners may well be directly and personally impacted by the applicant’s proposal.

Clearly the mission of the Rumney Select Board, as the applicant has affirmed, is to represent the views and interests of the citizens of the Town of Rumney. However, the Rumney

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Selectmen have publicly stated that while some may be concerned about impacts to their property values, the Town of Rumney may have an offset regarding the taxable value of the transmission lines and related equipment. Their perspective in this matter, while advocating more generally for the citizens of Rumney, is appropriate from their point of view in my opinion. They rightly need to consider the net impact on property values, factoring in the reductions in values of individual properties in the context of the likely offset resulting from increases to the value of taxable transmission equipment. This clearly places them in a position where their mission of defending our rights directly as individuals is diluted by potential positive offsets for the Town of Rumney. As such, I respectfully submit that since I have property that is potentially directly impacted, I have a statutory right to intervene because the interests of both the Town of Rumney as well as the Public Counsel involve a more general charge, which is diluted by the need to represent all citizens of Rumney and the greater public at large.

On page 8 section 17 of the reference 2 response, the applicant requests that in the event that the Presiding Officer decides to allow any or all of the intervention requests, the Committee order that our participation in these proceedings be consolidated. It is my hope that the Committee will grant intervener status to all parties who filed such requests. I understand that the Committee may choose to consolidate some or all of the petitioners according to shared interests and concerns. Most of us do not object to consolidation, however, we believe it is important that we be grouped in a way that provides for the most productive and orderly presentation of our concerns. To that end, we respectfully request that Carl Spring, Cheryl Lewis, and James Buttolph (undersigned) be grouped independent of others should the Committee see fit to order consolidation. All three parties have consented to this grouping. The Council for the Public, Peter Roth, has consented as well. We have contacted Groton Wind LLC with this suggestion and have noted that Groton Wind LLC objects to this motion. However, it is our position that forcing a consolidation between the three petitioners noted above and an individual who is alleged by the applicant to have misrepresented his abutter status (see page 3 section 7) and who has been alleged to have participated in *ex parte* communications (see page 7 section 15) may diminish our ability to present a credible position to the Committee regardless of whether or not these allegations have merit. I would suggest to the Committee that should the applicant's objection to this motion be sustained, this situation is likely to work to the applicant's disproportionate advantage at our expense.

On page 9, section 18 of the reference 2 response, the applicant urges that should intervention requests be granted, such participation be limited to the issues designated in the intervention requests. It is very early in the process and the parties are just now understanding the impact that this project may have on their properties and their community. I understand that as the process moves forward the parties will identify more clearly the critical issues. Therefore, we respectfully request that the Committee not limit the topics of concern at this premature date. I intend to discuss these issues with Counsel for the Public,

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Peter Roth, to ensure there is no overlap on key topics. It is not our intent to interfere with the orderly process before the committee, but at the same time I need to ensure that I and the other intervenors have a fair and reasonable opportunity to explore the concerns and ensure that the process is not dominated by the applicant who has a vested interest in limiting our involvement.

With respect to the applicant's comments included in section 19 on page 9 of the reference 2 response, I wish to assure the Committee that we are well aware of the distinction between being an intervenor and having the right to provide comments or information. Accordingly, we have petitioned to intervene. Further, we thoroughly understand the role that the Public Council plays in the proceeding and fully understand that we "have an opportunity to be placed on the docket's mailing list to receive copies of information...". As such, should the Presiding Officer decide to honor the request of the applicant and decide to "inform all interested persons and parties of the foregoing", you can be well assured that the recipients will have already studied the subject thoroughly and will endeavor to be well informed students of the process.

Under the applicable statutes, the Presiding Officer has considerable authority to grant or deny status for those who do not meet the requirements for intervention as interpreted by the Presiding Officer, to impose conditions on intervenor participation, and to change those conditions at any time. By exercising that authority when needed, the Committee can be assured the hearings will not become disorderly and unproductive.

At the pre-hearing for this docket that was held on June 7, 2010, a schedule was proposed. We have noted that the data requests to applicant are due from intervenors on 7/2/10. However, as expressed at the pre-hearing, we feel that in order to have sufficient opportunity to assess the application, the intervenors need to each be provided with a copy. We understand that the applicant objected to this request and suggested that we be required to refer to the copy at the offices of the Town of Rumney. Due to the limited access hours for this copy we consider this solution to be unsatisfactory. It is imperative that we have hard copies of this application as well as CD electronic copies in a timely fashion, allowing for a fair analysis and preparation of these data requests. Further, it is reasonable in our view to be afforded with at least as much time to prepare our requests as has been provided to Council for the Public who is working to a deadline of 7/9/10 according to our schedule notes. Accordingly, we respectfully request that the Presiding Officer establish a revised due date for data requests to applicant from intervenors that is no earlier than 7/9/10, or, in the case of further delay in providing us with an application to analyze, two calendar weeks (14 days) after receipt of hard copies and CD's, whichever is later.

For the reasons stated above, in summary I respectfully request that the Presiding Officer:

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- A) Allow the intervention requests submitted by the undersigned as well as any intervener who, in your judgment, complies with conditions set forth in RSA 541-A:32 I or II.
- B) Should the above referenced intervention requests be granted while imposing the condition of consolidation, order the consolidation of Carl Spring, James Buttolph, and Cheryl Lewis as a group independent of others.
- C) Refrain from limiting the topics of concern to be addressed by intervenors at this early date.
- D) Revise the date for the data requests due from intervenors to 7/9/10, or two weeks (14 days) after the applicant provides us with necessary hard copies of the application as well as CD's, whichever is later.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "James M. Buttolph". The signature is stylized and cursive, with the first letters of the first and last names being prominent.

James M. Buttolph