

MEMORANDUM

To: All Parties
NHSEC Groton Wind Docket, No. 2010-01

From: Michael J. Iacopino
Counsel to the Site Evaluation Committee

Date: September 24, 2013

Re: **AGENDA FOR PREHEARING CONFERENCE ON OCTOBER 2, 2013**

A prehearing conference in this docket will be held on October 2, 2013, at the Offices of the Public Utilities Commission, 21 South Fruit Street Ste. 10 Concord, N.H. The prehearing conference will commence at 11 o'clock a.m.

The purpose of a prehearing conference is to consider any one or more of the following:

- (1) Offers of settlement.
- (2) Simplification of the issues.
- (3) Stipulations or admissions as to issues of fact or proof, by consent of the parties.
- (4) Limitations on the number of witnesses.
- (5) Changes to standard procedures desired during the hearing, by consent of the parties.
- (6) Consolidation of examination of witnesses by the parties.
- (7) Any other matters which aid in the disposition of the proceeding.

RSA 541-A: 31. See also NH CODE OF ADMINISTRATIVE RULES Site 202.10. In order to aid in the disposition of the proceeding the prehearing conference will also include discussion of discovery methods and schedules and rough scheduling of a final merits hearing on all outstanding contested issues.

I have prepared and attach the following agenda for our conference. I have listed the issues in an order designed to deal with those that are least controversial first followed by the issues that I perceive as being more controversial. It is my hope that we can resolve all issues but if not we will then turn to discussion of how best to proceed.

If you believe that I have missed an issue that should be included in this agenda please feel free to contact me. See next page for outline of agenda.

OUTLINE OF AGENDA

- I. Turbine Access Road Maintenance and Safety Agreement
 - A. A maintenance and safety agreement was reached, in principle, after the public meeting between the Applicant and the local fire and safety officials.
 - B. The agreement has not yet been filed in writing. **This document must be filed in writing as soon as possible.**
 - C. Once filed, the agreement must be considered by the Committee as an amendment to the Certificate.
 - D. Position of the parties on this Amendment.
 - E. Will a further procedural schedule be necessary with respect to this issue?
- II. Operations and Maintenance Building/Motion to Re-Open
 - A. Can on-site mitigation measures resolve this issue as it pertains to the O&M building?
 - B. Further consideration and discussion of settlement based upon a public benefit option?
 - C. Other suggestions to resolve the issues raised?
 - D. In addition to the agreement with Mr. Rampino have any other settlements or agreements been reached between the Applicant and individual property owners?
 - E. If this matter is required to be litigated before the Committee we will need to include it in the procedural schedule.
 - F. On the alleged turbine relocation is there still a claim that needs to be resolved? If so the parties should be prepared to discuss their understanding of where the turbines were originally planned to be erected and where they were finally erected.
- III. Fire Marshall Correspondence Seeking Suspension
 - A. Have the Applicant and the Fire Marshall resolved this issue and if so will it require approval or further action by the Committee?

IX. Determination of procedural schedule for matters that cannot be resolved.

A. Identify all unresolved issues

B. Fact based discovery

1. Set deadline for written discovery/data requests
2. Schedule technical sessions if necessary
3. Set deadline for discovery related motions including motions for depositions. (Said motions should include all legal authority and arguments supporting or opposing the request. A hearing on such motions is unlikely.)

C. Legal Memoranda: Some of the unresolved issues may require argument concerning the interpretation of language in the certificate or statutory language.

1. Set schedule for legal memoranda.

D. Required documents. The documents set forth below appear to be relevant to unresolved issues. Unless the issues have been resolved the following documents shall be filed with the Committee and copied to all parties within 10 days of the prehearing conference.

1. Applicant shall file all correspondence of any nature (including e-mail or other electronic communication) between the Applicant, Applicant's representatives or agents and the Department of Environmental Services concerning the relocation of the operation and maintenance building or the position of any turbine.
2. Applicant and Investigator Anstey shall file copies of all correspondence of any nature between the Applicant, Applicant's representative or agents pertaining to the fire code, life safety code, building code and whether "on-board" fire suppression equipment is required.
3. Investigator Anstey shall file a copy of all relevant and applicable building, life safety and fire codes supporting the claims set forth in his correspondence dated August 12, 2013. Within five days thereafter the Applicant and any other party may file any building, life safety or fire code that is believed to be relevant and applicable to the project that has not been filed by Investigator Anstey.

E. Set rough schedule for adjudicative hearing in December 2013.

F. Procedural order. If necessary the procedural schedule will include a specification of charges that could result in suspension of the Certificate. The procedural order will serve as notice pursuant to RSA 541: 30, II, and RSA 162-H: 12, II.