THE STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

RE: Petition of Antrim Wind Energy, LLC for Jurisdiction	)	**Docket No. 2014-05**

OBJECTION TO APPLICANT'S MOTION TO STRIKE FILINGS BY COUNSEL FOR THE PUBLIC

Counsel for the Public hereby objects to the Applicant's Motion to Strike Filings by Counsel for the Public, stating as follows:

1. Antrim Wind Energy ("AWE") filed a petition seeking jurisdiction by the Site Evaluation Committee ("Committee") over a project of approximately 27 – 29.7 MW of wind generation to be constructed in the Town of Antrim (the "Project"). AWE has not filed an Application for a Certificate of Site and Facility pursuant to RSA 167-H:7.

2. AWE is presently seeking to exclude participation of Counsel for the Public on matters related to the question of jurisdiction of its proposed wind project on the basis that the Attorney General had not yet appointed Counsel for the Public, and Counsel for the Public has failed to file a timely motion to intervene.

3. To the extent that AWE's Motion to Strike is based upon the lack of appointment by the Attorney General that ground is remedied by the appointment by the Attorney General of Counsel for the Public that was filed with the Committee on February 18, 2015. In that regard, undersigned Counsel for the Public adopts all of the pleadings previously filed by Attorney Roth as Counsel for the Public in the instant matter.

4. Further, Counsel for the Public is not an intervener to proceedings before the Committee. Counsel for the Public is a statutorily authorized participant, and as such not required to file a petition to intervene in these proceedings. RSA 162-H:9.

5. It is of further note that there is no specific procedure that addresses what process is to be used when questions of jurisdiction arise without an application being filed. But the practice of the Committee has been to accept jurisdictional petitions in lieu of, or prior to an application being filed. See *Petition of Antrim Wind Energy, LLC*, N.H. Site Eval. Comm., no. 2011-02);

6. While the filing of an application triggers appointment of Counsel for the Public under RSA 162-H:9, the Committee has held that "there is nothing in the statute that prohibits the participation of Counsel for the Public in the absence of an application. Indeed, it is important that Counsel for the Public be involved in proceedings before the Committee as early as possible so that the public's interest can be represented at every stage of the proceedings." *Petition of Antrim Wind Energy, LLC*, N.H. Site Eval. Comm., no. 2011-02.

7. It appears that AWE acknowledges that to be true because it indicated in its original filing that it contacted Counsel for the Public as a "stakeholder" in this matter. This is also evident from AWE's objection to the intervention of Patrick Leahy on the basis that his interest was no different than the public at large and as such Counsel for the Public could adequately represent his interests.

8. Given that the Committee has previously determined that early involvement of Counsel for the Public was important in order to represent the public's interest, AWE's Motion to Strike should be denied. *United States v. Dotterweich*, 320 US 277, 280 (1943) (statutes to protect the public interest should be liberally construed).

WHEREFORE, Counsel for the Public requests that AWE's Motion to Strike Counsel for the Public's pleadings be rejected for the reasons set forth above and for such other relief as may be just.

Respectfully submitted,

COUNSEL FOR THE PUBLIC
By her attorneys

Joseph A. Foster
ATTORNEY GENERAL

Dated: February 19, 2015

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CERTIFICATE OF SERVICE

I, Mary E. Maloney do hereby certify that on this day, I caused a true copy of the foregoing to be serves upon the Parties by electronic mail.

Dated: February 19, 2015

Mary E. Maloney