

**THE STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

**In the matter of the
Application for Certification
Pursuant to RSA 162-H of
GROTON WIND LLC**

**Docket No. 2010-01
November 19, 2010**

**MEMORANDUM FOR THE INTERVENOR GROUP BUTTOLPH/LEWIS/SPRING
CONCERNING DUE PROCESS REQUIRED FOR MATTERS UNRESOLVED AT
CLOSE OF EVIDENTIARY HEARINGS ON NOVEMBER 5, 2010**

On Friday, November 5, 2010, Vice Chairman Thomas Getz requested that the parties develop our positions regarding our recommended schedule going forward on this docket. Also, we were requested to confer with one another in the event agreement could be reached on a recommendation to the Site Evaluation Committee (hereafter referred to as “the committee”). Should agreement not be feasible, we were requested to articulate our positions on this matter for the committee’s consideration.

As of this date, we have not heard from the Town of Rumney or the Town of Groton. After reviewing informal proposals from the Applicant, the Mazur/Wetterer Group, and Counsel for the Public, the Buttolph/Lewis/Spring group communicated our views to the parties. For those parties that were engaged in this process, a recommendation for the request of an extension beyond the statutory mid December decision date appears to be a matter of consensus. Beyond that, positions differed. The Applicant expressed a preference for moving forward at a pace that would allow for completion of these proceedings 30 days beyond the statutory schedule, whereas the remaining above listed parties involved in this discussion are anticipating a need for more time before sufficient progress is likely with respect to outstanding issues. The following states the details of the Buttolph/Lewis/Spring group’s position in this matter. Recognizing that our group’s position was to move for closure of the hearings on November 5, 2010, a motion that was not adopted by the committee, the following position is respectfully presented as our second choice.

- 1) Based on Mr. Cherian’s testimony, the feasibility study regarding the Applicant’s new interconnection proposal will not be complete until “February or Early March” (Nov 2, PM,

Court Recorder Transcription, pg 7, lines 9-10). Until confirmation of feasibility is attained, there remains a significant possibility that the interconnection approach could change. Proposed locations of facilities associated with this plan could also change, including locations of 115KV power lines and the physical location of the step-up station. It follows that possible impacts to wetlands, wildlife, and historic resources could also change. Only after feasibility is confirmed will confirmation of easements and/or property purchases to accommodate location of these assets be possible. For these reasons, completion of the feasibility study and associated filings of appropriate supplemental prefiled testimony should be a firm requirement before the committee's record process can move on to substantive discovery and construction of the appropriate evidentiary record associated with this new interconnection approach.

2) All appropriate agencies that were required to submit reports on the Applicant's originally proposed interconnection route, beginning at the project site, and concluding at the point of interconnection, need to have the opportunity to evaluate the alternate interconnection route deemed feasible in #1 above in order to determine what, if any, changes are recommended to their final reports. This involves, at a minimum, an assessment of changes to wetlands, historical sites, endangered species, wildlife, visual impacts, easements, and possible effects of blasting. This also should include assessment of the possible impact to the Rumney aquifer as it appears the alternate interconnection route may now pass over this aquifer on newly installed poles near the newly proposed intersection with existing NH Electrical Coop assets on Route 25. It is appropriate for all affected organizations to make this assessment and either adjust their reports accordingly, or formally document their position that early conclusions with respect to certificate approval and/or recommended conditions are still valid. It is our view that it would be inappropriate for these agencies to make this determination until the feasibility of the interconnection plan, and therefore the location of interconnection assets, is confirmed, afterwhich these agencies should be given a reasonable time frame to make their determinations.

3) We understand that the applicant is working diligently to overcome missteps with the New Hampshire Division of Historic Resources (DHR). Nevertheless, given the nature of the issues and possible implications of the resulting reports, it appears likely that the resulting analysis will highlight issues for which additional discovery, analysis, and development of the evidentiary record is required. Therefore, it is our position that the record process should be structured in such a way that allows sufficient time for the Applicant to identify the scope of the historic resources to

be analyzed, following by the completion of this analysis, culminating in a supplemental filing of prefiled testimony regarding the findings.

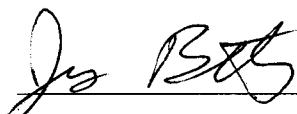
4) This Intervenor group has received a copy of the filing of the “Memorandum for Counsel for the Public Concerning Due Process for Matters Unresolved at Close of Evidentiary Hearings on November 5, 2010” dated November 19, 2010. Having reviewed this comprehensive document in detail, the Intervenor group of Buttolph/Lewis/Spring adopts the recommendations in this document while adding the following clarifying schedule requests. It is our view that the above listed steps (1-3) should be completed, followed by a discovery schedule that includes, at a minimum, the following process steps and lead times: Two weeks after completion of steps 1-3 for the development and submission of data requests by all parties, one week for data request responses to be developed and delivered, two weeks after receipt of data request responses before prehearing conference that establishes an additional schedule date or dates for the continuance of hearings as appropriate.

The Counsel for the Public on page two of the above referenced document has stated the following: “Clearly there is no rush to get approval on the Proposed Project before the end of the year. Therefore, Counsel for the Public respectfully requests that a grant of extension be allowed to *at least* May 1, 2011.” (Emphasis added). In our view, “at least” should be clarified to mean the adoption of a schedule that allows, at a minimum, for the process steps outlined in items 1-4 listed above to be completed.

Respectfully submitted,

The Buttolph/Lewis/Spring group

By their spokesperson



James Buttolph

I, James Buttolph, do hereby certify that I caused the foregoing to be sent by electronic mail or U.S. mail to the persons on the currently active service list for docket 2010-01 (exclusive of Committee members).