

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

ORDER AND NOTICE
OF
PRE-HEARING CONFERENCE

August 13, 2013

Docket No. 2010-01

**Application of Groton Wind, LLC for a Certificate of Site and Facility
for a Renewable Energy Facility in Groton, N.H.**

PLEASE TAKE NOTICE that the Site Evaluation Committee for the State of New Hampshire will conduct a prehearing conference on October 3, 2013 at 11:00 AM. The prehearing conference shall be held at the offices of the New Hampshire Public Utilities Commission, 21 South Fruit Street, Suite 10, Concord, New Hampshire.

Background

On May 6, 2011, a duly appointed Subcommittee of the Site Evaluation Committee (Subcommittee) issued its decision granting a Certificate of Site and Facility (Certificate) With Conditions (Certificate) to Groton Wind, LLC, (Applicant), authorizing the construction and operation of a renewable energy facility (Facility or Project) consisting of 24 Gamesa G82 turbines each having a nameplate capacity of 2 megawatts (MW), for a total nameplate capacity of 48 MW to be located in the Town of Groton, Grafton County, New Hampshire (Site). On October 14, 2011, the New Hampshire Supreme Court issued an order declining to review the Decision on appeal.

The Applicant subsequently commenced construction of the Facility.

On December 31, 2012, the Committee received a letter from the Selectmen of the Town of Rumney expressing concerns about the safety and maintenance of the turbine roads within the Site. On January 11, 2013, the Applicant delivered a letter to the Committee responding to the concerns raised by the Town. On January 16, 2013, the Rumney Selectmen replied to the Applicant's response indicating that the issue of the maintenance of the turbine roads within the Site during the winter months remained unresolved.

On January 14, 2013, James Buttolph on behalf of certain intervenors in this docket filed a letter with the Committee asking the Committee to re-open the record. In support of his request Mr. Buttolph alleges that the construction of the project did not comport with the plans as approved by the Committee and that there were significant revisions to the plans specifically regarding the location of the operation and maintenance (O&M) building and the location of two

wind turbines. Mr. Buttolph also asserts that the revisions to the planned facility were outside of the purview of the wetlands permit conditions and the alteration of terrain permit conditions.

On January 16, 2013, the Applicant responded to Mr. Buttolph's letter. In response, the Applicant asserts that the revisions to the plans and the facility as constructed were properly submitted to the Department of Environmental Services as modifications or amendments to the wetlands permit and the alteration of terrain permit. The Applicant asserts that further review by the Committee was unnecessary under the terms of the Certificate.

The Committee held a public meeting on February 19, 2013. At that time, the Committee determined that a prehearing conference should be held so that the parties might narrow the issues in dispute and address an appropriate schedule for discovery, hearings and/or an alternative resolution to the matters in dispute.

Pursuant to RSA 541-A:31, V (b) a notice of the prehearing conference was provided to the service list by e-mail on March 14, 2013 and again on March 21, 2013, at which time a Memorandum and Outline of Agenda for the prehearing conference was distributed to the service list. On March 25, 2013, a prehearing conference was held. On April 1, 2013, a Report of Prehearing Conference was submitted to the Committee.¹ The Report indicated that the issues of turbine road safety and maintenance together with the issue of the location of the operation and maintenance building were not resolved by the parties at the time of the prehearing conference. The Report further indicated that the parties agreed that Counsel to the Committee would convene a meeting of the Applicant, Fire Chiefs and EMS directors for the Towns of Rumney and Groton. Other local fire chiefs, EMS directors, the State Fire Marshall, a Fish and Game representative and the local fire commissioners would also be invited. It was determined that the purpose of the meeting would be to see if the Applicant, the chiefs and directors could come to an agreement as to the safest manner in which to maintain the turbine roads and ensure emergency access. It was further decided that Counsel to the Committee should attempt to obtain an agreement as to a resolution of this issue so that he could present it to the parties for agreement and to the Committee for approval.

The Parties agreed to undergo an informal mediation process with regard to the remaining issue concerning the O&M Building. It was further agreed that, if settlement was not achieved, the parties would then revert to a traditional prehearing conference and determine the process to proceed to an evidentiary hearing. A further pretrial hearing was scheduled for May 7, 2013...

On April 24, 2013 a meeting of safety officials occurred in Groton, New Hampshire. That meeting resulted in the commencement of an ongoing process designed to draft a complete safety and maintenance plan for the facility. The attendees report that an agreement regarding the safety and maintenance of the turbine roads was reached. However, a written agreement has not been provided to Counsel for the Committee, agreed to by all parties, or presented to the Committee for approval.

¹ It is noted that, at the time of the pretrial conference, the parties addressed and amicably resolved a number of other issues raised in this docket. See Order and Notice of Public Meeting (Jan. 18, 2013); Report of Prehearing Conference (Apr. 1, 2013). Further involvement of the Subcommittee on the issues noted in the Order and Notice of Public Meeting (Jan. 18, 2013) identified as resolved or withdrawn at the Report of Prehearing Conference (Apr. 1, 2013) is not required.

On May 6, 2013, the Applicant, through counsel, filed a motion to continue the Prehearing Conference until a date after May 9, 2013. On May 6, 2013, Counsel to the Committee issued a Memorandum granting Motion to Continue filed by the Applicant.²

To date, the issue regarding safety and maintenance of the turbine roads and the issue of the location of the operation and maintenance building remain unresolved and require resolution by the Committee.

Authority for the Pre-Hearing Conference

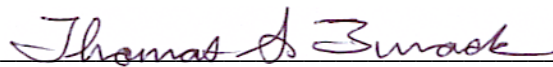
Pursuant to RSA 541-A:31, V(b), “[i]n order to facilitate proceedings and encourage informal disposition, the presiding officer may, upon motion of any party, or upon the presiding officer's own motion, schedule one or more informal prehearing conferences prior to beginning formal proceedings.” RSA 541-A: 31, V (b); see also NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES, Site 202.10 (a) (stating that prehearing conferences shall be conducted in accordance with RSA 541-A: 31).

ORDER AND NOTICE

It is hereby ordered, Counsel for the Committee, Michael J. Iacopino, shall convene a prehearing conference on October 3, 2013 at 11:00 AM at the office of the Public Utilities Commission, 21 South Fruit Street, Suite 10, Hearing Room 8, Concord, New Hampshire. The purpose of the prehearing conference is to schedule and discuss proposed hearing schedules for the balance of the proceedings in this docket. All parties and potential intervenors should attend. The pre-hearing conference shall be conducted in accordance with RSA 541-A: 31, V and NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES, Site 202.10. Counsel for the Committee, Michael J. Iacopino, shall preside.

It is hereby further ordered, that a copy of this order and notice of prehearing conference shall be distributed to the service list in this docket, published on the Committee’s website and posted at the Department of Environmental Services and the Public Utilities Commission.

By Order of the Site Evaluation Committee, this thirteenth day of August, 2013.



Thomas S. Burack, Chairman
New Hampshire Site Evaluation Committee

² Pursuant to NEW HAMPSHIRE CODE OF ADMINISTRATIVE RULES, Site 202.10 Counsel to the Committee may be designated as presiding officer for a prehearing conference.