

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

RE: Petition by Antrim Wind Energy, LLC)
for jurisdiction over renewable energy facility)
SEC Docket Number 2011-02)

**PRE-FILED DIRECT TESTIMONY OF
RICHARD BLOCK AND LORANNE CAREY BLOCK**

MAY 20, 2011

Q: Please state your names and address.

A: Richard Block and Loranne Carey Block. We live at 63 Loveren Mill Road, Antrim, New Hampshire 03440.

Q: What are your qualifications to speak to the application before the Site Evaluation Committee?

A: We have lived in Antrim since 1988. Our property consists of a house and farm on 230 south sloping acres, directly across from and in full view of Tuttle Hill, the site of the proposed wind facility. We can see the meteorological tower (“met tower”) from our windows. Over the 23 years we have lived here, one or both of us have served on the Antrim Conservation Commission, the Antrim Open Space Committee, The Contoocook and North Branch Rivers Local Advisory Committee, and as New Hampshire Coverts Coordinators. Since its creation as part of Antrim’s 1989 revision to the Zoning Ordinance, we have been active proponents for and supporters of the Rural Conservation District (“RCD”), starting with our successful petition to extend the District to the town line across the north side of Route 9. In 1999, the Society for the Protection of New Hampshire Forests named us as informal stewards for the Nature Conservancy’s Loveren Mill Cedar Swamp property and the Meadowsend Timberland forestry holding because of our historical, cultural, and environmental concerns for the region.

During the last two years we have opposed the Antrim Wind Energy (“AWE”) proposed siting of an industrial wind facility in the RCD, due to the zoning ordinance’s specific prohibition of industrial activity and tall structures in this district. We have attended virtually every relevant Zoning Board of Adjustment (“ZBA”) and Planning Board meeting and were the primary appellants in appeals to Planning Board and ZBA decisions about Antrim Wind Energy’s applications. We are currently the plaintiffs in one of the two pending suits against the Town of Antrim before the Superior Court that challenge ZBA decisions, and court-approved intervenors in the other suit.

Q: What is the purpose of this pre-filed testimony?

A: The purpose of this testimony is to provide the Site Evaluation Committee (“SEC”) with detailed information about why we feel it would be inappropriate for the SEC to assert jurisdiction over this project.

Q: What is your interpretation of the status of the petition for jurisdiction filed with the SEC by Antrim Wind Energy, LLC?

A: No application for a wind turbine facility has as yet been filed by AWE. Moreover, the details of their proposal have changed numerous times in the last two years and are still vague and undefined. Without a more specific plan in place for the Town of Antrim and the SEC to consider, it will be impossible to determine the merits of AWE’s proposal. Therefore it is extremely premature for AWE to ask the SEC to assert jurisdiction at this time.

Q: Do you feel that the Selectmen were premature in their requests to the SEC for jurisdiction?

A: In February of this year, then Chair Gordon Webber, after a Board of Selectmen meeting attended only by him and one other selectman, wrote and submitted the original request to the SEC to take jurisdiction of the AWE project “if and when an application is made.” Since an actual application for a commercial wind facility has yet to be submitted by AWE, based on Mr. Webber’s request, it would be premature for the SEC to take jurisdiction at this time. At their

March 21st Board meeting, the selectmen charged the Planning Board with the task of drafting a new, comprehensive renewable energy zoning proposal to be completed if possible by this fall. Yet one month later, on April 20th the new chair of the Selectboard, Mike Genest, submitted two more letters to the SEC, one of which was an objection to the Planning Board's Petition for Intervention, thus contradicting their previous mandate. The other letter was a reiteration of Mr. Webber's February request for jurisdiction. Neither of these letters had been discussed in public session by any of the Selectmen and were, in fact, composed and sent privately. When pressed on this, both the Town Manager and Mr. Genest admitted that the letters were not discussed in public and were only later actually discussed and "ratified" by the Selectboard, after they had already been sent to and received by the SEC.

Q: Can you give more details on the two pending Superior Court cases?

A: In the spring of 2009, AWE submitted an application for an area variance to the Antrim ZBA, asking to allow them to exceed zoning height restrictions and erect a met tower in the Rural Conservation District on Tuttle Hill. After 5 public hearings before the ZBA, in October 2009 the variance was granted in spite of overwhelming public commentary against it at those hearings. The met tower was hastily erected in November 2009 during the appeal period for this variance.

We filed a timely appeal for rehearing of the decision with the ZBA based on the inadequacy of AWE's application and the inappropriate nature of justifying their met tower under the Small Wind Energy System section of the ordinance. In December 2009 the ZBA granted our rehearing request, but due to many delays to the rehearing process, it was not heard until late summer of 2010, at which time the ZBA voted to uphold its decision to grant the variance. Subsequent to this decision, we filed an appeal with the Hillsborough County Superior Court based on a) the improper application under the Small Wind Energy Systems article, b) the inadequate proof of the satisfaction of the five required variance criteria, c) the improper granting of a variance for an non-permitted use, and d) the violation of our due process since throughout AWE's application procedure they had been permitted to address at length the benefits of wind energy generation yet we were only allowed to address the met tower in our arguments against them. This case is still pending in the Court, and, in fact, although scheduled

for a bench trial on May 24th, has just been continued to a date uncertain based on a motion from AWE.

Although a height variance had been granted to AWE in October 2009, prior to the rehearing of the variance appeal, AWE submitted a request for a site plan review to the Planning Board which was heard in March 2010. The Planning Board approved the site plan based on AWE's claim to be a Public Utility. We immediately filed an appeal to this decision with the ZBA, and the Planning Board decision was unanimously overturned. After the ZBA rejected AWE's rehearing request, they appealed this decision to the Hillsborough County Superior Court, and this case was subsequently consolidated with our Court appeal, scheduled for bench trial on May 24th of this year, and continued based on AWE's motion to do so.

Q: Do these court cases have bearing on this current application for jurisdiction?

A: Absolutely. If the Court finds against AWE's wishes in both cases, this would reaffirm our position that this application by AWE is inappropriate given the Town of Antrim's zoning ordinance. It should be noted here that, in spite of the fact that a height variance was indeed granted in October 2009, and that the site plan was rejected in May of 2010, AWE has once again approached the ZBA in April of this year with yet another application, this time for a height and use variance. AWE's repeated attempts to delay these proceedings along with their multiple simultaneous approaches at seeking permitting only serve to show how inadequate and undefined their plans are. For this reason, the SEC should not assert jurisdiction over AWE's project and allow the Court to decide the merits of their applications.

Q: How do you see the situation for AWE in Antrim as different from the situation that existed in Lempster?

A: Contrary to claims by AWE, the situation in Antrim differs greatly from that in Lempster, since Antrim has had a strong zoning ordinance in place since 1974, along with the town land use boards to enforce and amend the ordinance as necessary. Antrim also has an ordinance in place that deals with small wind energy systems and is currently in the process of drafting a proposal to address larger scale renewable energy projects.

Q: How would you characterize AWE's expertise and experience as qualifications for their proposal for a project in Antrim?

A: AWE is a new, unproven company with no prior completed projects to demonstrate their competence. While they claim to be involved with five wind projects in three states, our research has not been able to find a single started, completed, or operating installation of theirs for us to examine. During the application process, when we asked Mr. Kenworthy where we could go to view a met tower that AWE had installed, they could not supply a location. The woeful inadequacy of their initial variance application along with the multiple simultaneous approaches that AWE has employed for the past two years is indicative of their inexperience and lack of understanding of proper application and permitting procedures, and it is clear to us that they are figuring this out and learning as they go. We do not want AWE to experiment on the Town of Antrim in order for them to learn how to apply for, install, and manage a commercial wind facility.

Q: How do you rate the Town of Antrim's competence in being able to deliberate on AWE's project?

A: The Antrim Planning Board and numerous town residents have clearly spoken out expressing a strong desire for local control. The Planning Board, since the March election, has two new members, both very experienced in environmental and land use practices, who were voted in by an overwhelming majority because of their stand on this issue. The Planning Board has, in addition, commenced work with an ad hoc committee to study and make recommendations for zoning ordinance changes to address renewable energy facilities of a larger scale than is covered by our Small Wind Energy Systems article, with a goal of having a proposal to put before the town by this fall.

Q: Does this conclude your pre-filed testimony?

A: Yes, it does.