

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

**Docket Number 2011-02
Petition for Jurisdiction Over Renewable Energy Facility
Proposed by Antrim Wind Energy LLC**

August 23, 2011

**DISSENT FROM
JURISDICTIONAL ORDER**

Based on the evidence presented, we respectfully dissent from the majority's decision to take jurisdiction in this matter. We do not conclude that the evidence presented requires the Site Evaluation Committee to assert jurisdiction and believe the better course is for the municipal authorities within Antrim to continue to evaluate the wind facility under consideration. We reach this conclusion for the reasons set forth below.

Antrim has institutions in place that are designed to assess a complex project of this type. Antrim has a Board of Selectmen, a Planning Board, a Zoning Board of Adjustment, a master plan and an *ad hoc* committee evaluating where and under what standards a commercial-scale wind facility should operate. This is quite unlike the circumstances presented in SEC Docket No. 2006-01, Community Energy, Inc. In that case, the Lempster Board of Selectmen requested the SEC take jurisdiction because of Lempster's limited institutional structure, having little more than a building inspector to evaluate the state's first commercial-scale wind facility.¹ The situation in Antrim is closer to that of Berlin and our ruling on a request for SEC jurisdiction brought by Michael Laflamme and Howard Jones, SEC Docket No. 2009-03. In the Laflamme/Jones matter, we found the municipal institutions, including the Office of the Mayor,

¹ Since the filing of the Lempster proposal, the SEC has seen the development of two additional commercial-scale wind facilities; the record of these cases provides municipalities something of a roadmap to evaluate the energy, economic and environmental issues raised by such projects.

Planning Board, Zoning Board of Adjustment and an SEC-like review committee were adequate to evaluate a 29 MW biomass plant proposed by Clean Power Development.

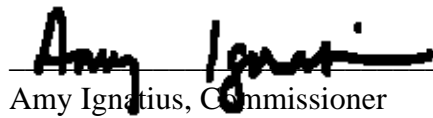
We recognize that the Antrim project is controversial, and the working relationship between municipal authorities currently is strained. AWE estimates 3.5 miles of new roads will be necessary within the Tuttle Hill area of the Rural Conservation District, to accommodate approximately 10 turbines, each with a combined tower/turbine blade height of 475 feet. Given the project's scope and location, it is not surprising that there are strong views and those who wish to develop more detailed zoning provisions before such a project is sited. Controversy and tension within a municipality, however, are not a basis to assert jurisdiction.

There is evidence that the Zoning Board of Adjustment's permitting of the meteorological tower led to two lawsuits now pending in the Hillsborough Superior Court and concern on the part of the Board of Selectmen that more litigation may follow if Antrim retains jurisdiction. While we are sympathetic to the pressure this proposal is putting on municipal resources, there is no evidence that the litigation has been brought in bad faith. And while some in Antrim may be unalterably opposed to wind facilities under any circumstances, there is no evidence that the municipal officials who have opposed SEC jurisdiction are acting in bad faith or unable to fairly evaluate the efforts of the *ad hoc* committee or a proposal by AWE.

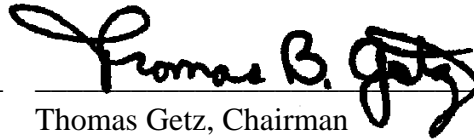
Finally, we note that no application for a variance has been filed with the Antrim Zoning Board of Adjustment and that no site plan review has been filed with the Antrim Planning Board, leading us to conclude that claims of bias and undue delay are premature. With nothing pending, we have no basis to assume that the Zoning Board of Adjustment and the Planning Board will not act on the proposal fairly or in a timely fashion.

For the foregoing reasons, we would not accept jurisdiction over this matter.

Dated this 23rd day of August, 2011.



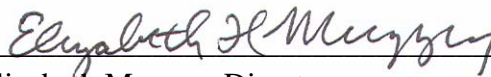
Amy Ignatius, Commissioner
Public Utilities Commission



Thomas Getz, Chairman
Public Utilities Commission



Michael Harrington, Staff Engineer
Public Utilities Commission



Elizabeth Muzzey, Director
Department of Historical Resources