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April 18, 2012

**Via Hand Delivery and Electronic Mail**

Ms. Jane Murray, Secretary  
New Hampshire Site Evaluation Committee  
N.H. Department of Environmental Services  
29 Hazen Drive  
Concord, NH 03302-0095

***Re: Docket 2012-01 - Application of Antrim Wind Energy, LLC  
for a Certificate of Site and Facility for a Renewable Energy Facility***

Dear Ms. Murray:

Enclosed for filing with the New Hampshire Site Evaluation Committee in the above-captioned matter please find Applicant's Objection to Antrim Planning Board's Petition for Intervention. Please contact me if there are any questions about this filing. Thank you.

Very truly yours,

Susan S. Geiger

SSG/gvb  
Enclosures

cc: Service List, excluding Committee Members

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

**Docket No. 2012-01**

**Re: Antrim Wind Energy, LLC**

**APPLICANT'S OBJECTION TO  
ANTRIM PLANNING BOARD'S  
PETITION FOR INTERVENTION**

NOW COMES Antrim Wind Energy, LLC ("AWE" or "the Applicant"), by and through its undersigned attorneys, and objects to the Petition for Intervention filed by Antrim Planning Board ("the Planning Board") by stating as follows:

1. In support of its Petition for Intervention, the Planning Board asserts: 1) the Planning Board has "principal responsibility for creation and implementation of land use planning regulations in Antrim"; 2) the Planning Board was an intervenor in Docket 2011-02 where AWE petitioned the Site Evaluation Committee ("SEC") to take jurisdiction of AWE's project; and 3) AWE's meteorological tower "was before town boards in 2009 and 2010." *Petition for Intervention by Antrim Planning Board*, ¶ 3.

2. For the reasons discussed below, the foregoing assertions do not meet the intervention standards established in RSA 541-A:I (b), as they do not demonstrate that the Planning Board's rights, duties, privileges, immunities or other substantial interests may be affected by the above-captioned proceeding, or that the Planning Board qualifies for intervention under any provision of law.

A. The fact that the Planning Board is responsible for creating and implementing land use regulations does not automatically entitle it to

intervenor status in this docket under the applicable statutory standard discussed above. Although RSA 162-H:16, IV (b) requires the SEC to give “due consideration” to the views of municipal and regional planning commissions when determining whether the Project will unduly interfere with the orderly development of the region, the statute does not require that the SEC confer intervenor status upon municipal planning boards. The Planning Board’s views in this docket may be presented to the SEC in the form of oral or written comments, and without the need for the Planning Board’s participation as a full intervenor.

B. In addition, the fact that the Planning Board was an intervenor in the SEC docket that considered the issue of whether to assert jurisdiction over the AWE project does not automatically entitle the Planning Board to intervene in this docket. The jurisdictional docket, SEC Docket No. 2011-02, dealt with the issue of whether the SEC should assert jurisdiction over the Antrim Wind Project or whether the Planning Board and other regulatory agencies should retain authority to review the Project. Thus, the Planning Board’s interests in the jurisdictional proceeding were quite different than the very limited role of providing views to the SEC in this adjudicative proceeding, as expressed in RSA 162-H:16, IV. (b). As indicated above, the Planning Board does not need to be an intervenor to provide its views to the SEC in this docket; those views can be expressed by way of “public comment.”

C. Finally, the fact that AWE's meteorological tower was considered and permitted by boards within the Town of Antrim does not create a sufficient interest to form the basis for a successful intervention petition. Although the Town boards may have played a role in permitting the Project's meteorological towers in the past, RSA 162-H preempts the Planning Board from regulating any aspect of the Antrim Wind Project that is presently before this Committee. *See Public Service Company of New Hampshire v. Town of Hampton*, 120 N.H. 68, 71 (1980).

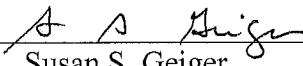
3. Notwithstanding that the Planning Board's intervention petition is facially deficient in that it fails to meet the intervention standards set forth in RSA 541-A:32, I (b), AWE nonetheless acknowledges that the Planning Board may present its views on the Project's effects on the orderly development of the region, as contemplated by RSA 162-H:16, IV (b). Thus, in the event that the Presiding Officer grants the Planning Board's Petition, the Board's participation should be limited to the above-referenced "orderly development" issue, or otherwise limited in accordance with RSA 541-A:32, III. as the Presiding Officer deems appropriate.

WHEREFORE, AWE respectfully requests that the Presiding Officer:

- A) Deny Antrim Planning Board's Petition for Intervention;
- B) In the alternative, if the Presiding Officer grants the Planning Board's intervention petition, the Board's participation in this docket should be limited to issues relating to whether the Antrim Wind Project will unduly interfere with the orderly development of the region, *see* RSA 162-H:16, IV (b), and further limited in accordance with RSA 541-A:32, III.; and

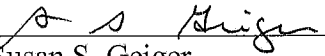
C) Grant such further relief as is deemed appropriate.

Respectfully submitted,  
**Antrim Wind Energy, LLC**  
By its Attorneys,  
Orr and Reno, P.A.

By:   
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Certificate of Service

I hereby certify that on this 18<sup>th</sup> day of April, 2012, a copy of the foregoing Objection was sent by electronic mail or U.S. Mail, postage prepaid, to persons named on the Service List of this docket.

  
Susan S. Geiger