

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

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

Docket No. 2012-01

**MOTION OF COUNSEL FOR THE PUBLIC FOR LEAVE TO RETAIN
GREGORY C. TOCCI, AND CAVANAUGH TOCCI ASSOCIATES AND FOR
AN ORDER DIRECTING ANTRIM WIND ENERGY LLC TO BEAR THE
COSTS THEREOF**

Counsel for the Public, Senior Assistant Attorney General Peter C.L. Roth , by his attorneys, the Office of the Attorney General, hereby moves, pursuant to RSA 162-H:10, V, for leave to retain an expert consultant and for an order directing Antrim Wind Energy, LLC ("Applicant"), to bear the costs of the consultant contract and reimburse Counsel for the Public in an amount up to \$33,300, and to pay a retainer of \$15,000. In support hereof, counsel for the public respectfully represents as follows:

1. On January 31, 2012, Antrim Wind Energy, LLC (the "Applicant") filed its Application for a certificate of site and facility under RSA c. 162-H.
2. On April 30, 2012, the Attorney General appointed the undersigned as Counsel for the Public pursuant to RSA 162-H: 9.
3. Pursuant to RSA 162-H: 10, V, Counsel for the Public may employ such consultants as are necessary to further his duties under ch. 162-H. Also pursuant to RSA 162-H:10, V, the cost of such consultants "shall be borne by the applicant in such amount as may be approved by the Committee."

4. The Applicant's project is proposed as 10 wind turbines of 3 MW each standing on steel towers along 2.5 miles of relatively low elevation ridgeline in the Town of Antrim and associated roadways and other infrastructure (the "Project"), within less than a mile of a large number of residences and other "community receptors." See O'Neal testimony at 4-5. The Applicant has conducted a study to assess the noise impacts of the Project upon Antrim residents. The Project would be one of the first wind projects in the nation (if not in fact The first in the nation) to place 3 MW turbines within less than a mile of non-participating residences.

5. Counsel for the Public has a need to employ a consultant to provide expert analysis and opinion to be presented in the form of testimony with respect to the Project's expected noise impacts.

6. Counsel for the Public wishes to employ Gregory C. Tocci, P.E. FASI, of Cavanaugh Tocci Associates, Sudbury, Massachusetts, to provide expert analysis and opinion concerning the noise emissions that the proposed project may be expected to produce and a critique of the methodology and results of the consultants employed by the Applicant. Mr. Tocci's resume is attached as Exhibit "A." The details of the services Mr. Tocci will provide are set forth in the attached Exhibit "B". Mr. Tocci's rates are also set forth in the attached Exhibit "B." He estimates the total cost of his engagement to be approximately \$33,300. He requires a \$15,000 retainer.

7. Under RSA 162-H:10, V, the cost of such consultants "shall be borne by the applicant in such amount as may be approved by the Committee" and Counsel for the Public asks the Sub-committee to order and direct the Applicant to pay the consultants' costs as presented on invoices from the consultants on a monthly basis

and in accordance with the terms of the engagement letters attached hereto. Counsel for the Public has done his utmost to fairly and accurately estimate the total budget for each of these two key areas, but must nevertheless reserve to himself the ability and right to request additional sums should the need arise.

8. Counsel for the Public has requested the other parties to assent to this motion.

The following parties assented:

Audubon Society of N.H.

Appalachian Mountain Club

Industrial Wind Action group

Kathryn Sullivan

Antrim Conservation Association

Antrim Planning Board

Consolidated North Branch ("Block")

Edwards and Allen.

The Harris Center took no position.

The Antrim Select Board did not respond.

The Applicant did not oppose the engagement but objects to the fees to be paid in each instance, except for Mr. Lloyd-Evans as "unreasonably high." With respect to the Deloitte retention the Applicant objects because the engagement does not include testimony. With respect to Tocci and Deloitte the Applicant objects to retainers.

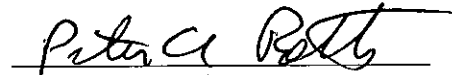
Wherefore, Counsel for the Public prays that the Sub-committee enter an order authorizing him to retain Mr. Tocci pursuant to RSA 162-H:10, V, and directing the Applicant to bear the costs, as incurred monthly, up to \$33,300, and pay his retainer, and granting such other relief as may be just.

Respectfully submitted this 18th day of June, 2012,

PETER C.L. ROTH
COUNSEL TO THE PUBLIC

By his attorneys

MICHAEL A. DELANEY
ATTORNEY GENERAL



Peter C.L. Roth
Senior Assistant Attorney General
Environmental Protection Bureau
33 Capitol Street
Concord, New Hampshire 03301-6397
Tel. (603) 271-3679

Certificate of Service

I, Peter C.L. Roth, do hereby certify that I caused the foregoing to be served upon each of the parties on the attached Service List.

Dated: June 18, 2012



Peter C.L. Roth

EXHIBIT A

Gregory C. Tocci
Senior Principal Consultant

Education:

Massachusetts Institute of Technology, MS 1973
Tufts University, BS 1970

Professional Affiliations:

Fellow, Acoustical Society of America
Past President, National Council of Acoustical Consultants
Past President and Board Certified Member, Institute of Noise Control Engineering
Past Chairman, Greater Boston Chapter of the Acoustical Society of America
Member, American Society for Testing and Materials
Co-Chair, ANSI S12 WG44 Speech Privacy

Registration:

Professional Engineer in Massachusetts and Rhode Island

Experience:

As President and founding partner of CAVANAUGH TOCCI ASSOCIATES, Inc., Mr. Tocci is responsible for both its technical and business activities. Among types of projects managed by Mr. Tocci are speech privacy and intelligibility studies; mechanical system noise and vibration control studies; environmental noise impact assessments for residential, commercial, and industrial developments; engineering noise abatement programs; and many types of special noise and vibration studies for building and manufacturing industries.

Mr. Tocci is active in several professional organizations, has served as an invited lecturer at the Harvard School of Public Health and Cornell University, and is author of the *Solutia Acoustical Glazing Design Guide* and papers published in various magazines and proceedings. Mr. Tocci has also lectured in several environmental and industrial seminar programs.

Representative projects for which Mr. Tocci has consulted include:

- **Fidelity Investments, 245 Summer Street, Boston, MA**
Design of executive conference center and sound and vibration isolation of five 2 MW emergency generators immediately above large auditorium/conference room.
- **Children's Hospital Clinical Building, Boston, MA**
Acoustical design of a large hospital building with patient rooms, ORs, laboratories, and vibration sensitive instrumentation including one stationary MRI and the first gantry mounted OR MRI in the U.S.
- **500 Atlantic Avenue, Boston, MA**
Building vibration isolation design, HVAC and architectural sound control of a premier hotel (Intercontinental Hotel) and condominium residence constructed on an existing CA/T vent building.
- **Federal Express Ground, Moon Township, PA**
Evaluated the suitability of 20+ sites for FedEx Ground parcel handling terminals throughout the U.S. Work has involved environmental sound monitoring, criteria development, sound barrier design, site orientation to control sound, and presentation to town boards.

EXHIBIT B

CAVANAUGH TOCCI ASSOCIATES, INCORPORATED

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STEWART RANDALL, CTS-D
MARTIN CALVERLEY, CTS

June 7, 2012

Mr. Peter CL Roth
Senior Assistant Attorney General
State of New Hampshire
33 Capitol Street
Concord, New Hampshire 03301

Subject: Authorization of Services

Dear Mr. Roth,

Services for:

Proposed Antrim Wind Energy Project, Antrim, New Hampshire

Documents:

I have briefly reviewed the following:

Application of Antrim Wind Energy, LLC for a Certificate of Site and Facility
January 31, 2012

Sound Level Assessment Report, Antrim Wind Energy Project, Antrim, NH
November 17, 2011

Prefiled Direct Testimony of Robert D. O'Neal on behalf of Antrim Wind, LLC
January 31, 2012

Among items observed are the following:

- ☐ Lowest measured 90th percentile A-weighted sound levels range between 24 and 31 dBA. No correlation between wind speed and 90th percentile A-weighted sound level was provided.
- ☐ Highest estimated sound levels are cited as 41 dBA.
- ☐ Prior SEC decisions for wind energy projects were cited as imposing noise limits of the greater of 45 dBA or 5 dBA above ambient (Lempster and Groton, NH), WHO recommendation of 45 dBA at night outside residential buildings, and the US EPA recommendation of a DNL not exceeding 55 dB outside to avoid any of the known hazards associated with noise.
- ☐ Infrasound impacts were dismissed as having not been previously proven to exist.

Our concerns are that the maximum sound level of 41 dBA may exceed the background sound level by more than 5 to 10 dBA. Also, my recollection is that the limits set in Groton were based

on existing background, while Antrim Wind's testimony has converted these to fixed limits. Citing Groton limits as fixed would be misleading.

Tasks:

1. Review in detail, the above listed documents, and prior NH SEC decisions relevant to wind energy facility sound. Prepare notes for discussion.
2. Re-analyze Epsilon Associates noise data to determine the relationship between wind speed and background sound level.

Note that background sound levels were measured between September 16 and October 4, 2011 when trees were foliated. Background during un-foliated periods may be lower than when measured in 2011 and may need to be re-measured.

3. Visit the project area and sound monitoring sites with R. O'Neal and P.C.L. Roth.
4. Determine design goals for Antrim Wind Energy sound at residences that would minimize potential adverse community reaction.
5. Attend first Technical Session to pose questions as appropriate.
6. Prepare for and attend second Technical Session to discuss documents review and request any additional information.
7. Prepare pre-filed testimony.
8. Conduct additional monitoring during leaf-on season, e.g. Greg Lake, Willard Pond, and possibly other locations.
9. Conduct additional monitoring during leaf-off season.
10. Prepare for and attend SEC hearing (2 days).

Estimate Cost of Services

Task 1. Documents Review	\$1,800.00
Task 2. Reanalyze Epsilon Data	\$2,800.00
Task 3. Site Visit	\$2,000.00
Task 4. Design Goals for Wind Turbine Sound at Receptors	\$2,000.00
Task 5. Attend First Technical Session	\$1,500.00
Task 6. Prepare for and Attend Second Technical Session	\$2,900.00
Task 7. Pre-filed Testimony	\$2,800.00
Task 8. Additional Sound Monitoring during Leaf-ON	\$6,600.00
Task 9. Additional Sound Monitoring during Leaf-OFF	\$8,100.00
Task 10. Prepare for and Attend SEC hearing (2 days)	\$2,800.00
PROJECT TOTAL	\$33,300.00

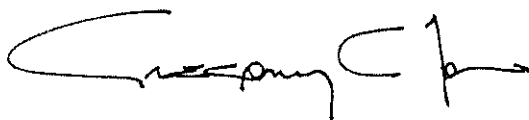
If you agree with the tasks described, please signify your approval by signature below. Note that not all tasks may need to be completed, or may not involve the effort estimated.

If you approve these tasks, please forward this proposal to Antrim Wind Energy, LLC for their approval and commitment to pay for these services. We would require a retainer of \$15,000 towards the total project estimate of \$33,300 to begin this work. Billings for services are as described in the attached fee schedule.

If we can provide any further information, please do not hesitate to contact us. Thank you.

Yours sincerely,
CAVANAUGH TOCCI ASSOCIATES, INC.

Tasks Approved:
State of New Hampshire



Gregory C. Tocci, *President*

Signature

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Date

Costs Approved
\$15,000 retainer to be submitted to initiate work:
Antrim Wind Energy, LLC

Signature

Title

Date

CAVANAUGH TOCCI ASSOCIATES, INCORPORATED

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Antrim Wind Energy Project Antrim, New Hampshire

Office of the Attorney General State of New Hampshire Concord, New Hampshire

Consulting Arrangements:

Standard Schedule of Charges

For all consulting assignments, invoiced costs for services are based on professional staff time spent and out-of-pocket expenses incurred during the course of the project. Professional staff time is charged on an hourly basis in accordance with the following rates. These rates include all indirect labor and other firm overhead costs:

Senior Principal Consultants	\$200 - \$230 per hour
Principal Consultants	\$150 - \$220 per hour
Senior Consultants	\$120 - \$160 per hour
Staff Consultants	\$110 - \$130 per hour
Technical Assistants	\$50 - \$80 per hour

Professional staff time for travel to and from field conferences, project site measurements, and inspection visits are billed on a portal-to-portal basis from our offices in Sudbury, Massachusetts.

Direct project expenses are billed at cost and include all costs incurred for measurement instrumentation, computer modeling software use, and other significant charges directly associated with the consulting assignment. Expenses are billed at direct cost with no markup.

Invoices for services are billed on a monthly basis and are due net 30.

Effective 01 January 2012