

**STATE OF NEW HAMPSHIRE SITE EVALUATION COMMITTEE**

RE: Application of Antrim Wind, LLC for Certificate )  
of site and facility to construct up to 30 MW of wind electric )  
generation in Antrim, New Hampshire and operate the same. )

**MOTION TO COMPEL ANTRIM WIND, LLC TO RESPOND TO DATA  
REQUESTS BY NORTH BRANCH RESIDENTS INTERVENORS GROUP**

The North Branch Residents Intervenor Group (“Block Group”), through its spokesperson, Richard Block, respectfully requests that the New Hampshire Site Evaluation Committee (“SEC” or “Committee”) compel Antrim Wind, LLC (“AWE” or “Applicant”) to respond to the Block Group’s Data Requests in the above-captioned proceeding. In support of its motion, the Block Group states as follows:

1. The Block Group petitioned to intervene in the above-captioned matter before the SEC. The Committee, through its *Order on Motions to Intervene* dated May 18, 2012, granted the Block Group permission to fully participate as an intervenor pursuant to RSA 541-A:32, II.

2. SEC Site 202.12 (a) provides “The presiding officer shall authorize data requests in the nature of interrogatories, requests for production of documents, requests for admission of material facts, depositions and any other discovery method permissible in civil judicial proceedings before a state court when such discovery is necessary to enable a party to acquire evidence admissible in a proceeding and when such method will not unduly delay the prompt and orderly conduct of the proceeding.” In its May 18, 2012 *Report of Prehearing Conference and Procedural Order*, the Committee articulated the schedule and procedure for filing and responding to data requests.

3. The Block Group propounded its data requests on the Applicant on June 1, 2012 per the procedural schedule. In total, twenty-four (24) data requests were submitted to the Applicant.

4. On June 20, 2012, the Applicant provided responses to certain of the data requests and objected to others. The Applicant failed to answer or gave insufficient answers to all or part of four data requests (1, 9, 10, and 15). The Applicant additionally objected to seven data requests (2, 7, 8, 18, 19, 20, and 21), claiming the requested information was “burdensome,” “unreasonable,” and/or “onerous.” (A copy of the protested data requests and responses is attached as *Exhibit A*.)

5. The information sought by the Block Group is necessary and appropriate to permit the Block Group to fully and fairly present its case to the Committee.

6. In number 1, the Block Group sought a copy of the wind data obtained by the meteorological test tower presently on Tuttle Hill and AWE's analysis of how that leads them to project an annual net capacity factor of 37.5% - 40.5%. The response refers to the response to Data Request 1-14 from the Antrim Planning Board. That response, however, only states that the projections are "a result of the wind resource data collected on the site since November 2009." No actual data is provided and no further explanation is given as to how that data was analyzed to achieve those projections. A reference to Appendix A of Appendix 10 of AWE's application yields a mention of the tables of data collected by the met tower, but, again, no specific data is provided. The Applicant has failed to justify why they have not provided the requested data.

7. Requests number 9 and 10 both seek sound data for specific locations, including "both audible and subsonic projections." The Applicant's response either misinterprets or misunderstands the question, since it states: "With regard to 'subsonic' projections, we would classify that as data in the low frequency octave bands (31.5, 63, 125 Hz)." The audible portion of the audio spectrum is classified as (optimally) from 20 Hz to 20,000 Hz. This places the "low frequency octave bands (31.5, 63, 125 Hz)" well within the audible spectrum and not in the subsonic range. The data requests in question seek information to determine whether the Applicant has tested in the true subsonic range of the audio spectrum.

8. Data request number 15 refers to Appendix 9A of the application, where on page 26 it states:

"The panorama simulation was completed to show how the Project would look with a wider field of view typical of normal human eyesight. It is important to note that the panorama image, as printed in an 11"x17" inch format in this document has an inherent degree of distortion that makes the turbines appear more distant from the viewer than they would actually appear under actual viewing conditions. For this reason a standard 50mm single frame simulation is included from this same vantage point offer a more accurate scale representation of the proposed scene."

The 11"x17" format panoramas are included as part of the VIA report, but the "standard 50mm single frame simulation" can not be found, and the data request is simply for the Applicant to provide several of those promised 50mm simulations. The Applicant has obviously misinterpreted our request and thus their objection to this request is groundless.

9. Data request number 2 seeks the number of residences within a one-half mile radius, a one mile radius, and a two mile radius of the turbines, broken down into year-round and seasonal subtotals. Responses were given for the one-half mile and one mile radii, but the Applicant objected and refused to provide the two mile data on the grounds that the request was "unreasonable and onerous." Given that the Applicant has analyzed the visual impact of the turbine installation to a five mile radius, the archaeological impact within 10 kilometers (over 6 miles), and the noise impact to about three miles, the Block Group believes it is not unreasonable to assess how many residences lie within a two mile radius. Given setback distances from 3 MW turbines of up to several miles

being suggested in various countries, it is appropriate to know the population density within two miles of the proposed site. In addition, the applicant has not addressed the request for residence data for seasonal as well as year-round homes.

10. Data request number 7 seeks a list and appropriate documentation for all meetings held between AWE and various officials of the Town of Antrim, whether public or in private. Since early 2009, there have been numerous meetings, not all as posted public board meetings, involving AWE and the Town. The Applicant objects to this question on the grounds it is “burdensome, unreasonable, irrelevant, and not likely to lead to the discovery of admissible evidence.” The Block Group believes this data is necessary to help determine how the various permit applications, operating agreement, and PILOT agreement were effected, and how the Applicant has conducted business in Antrim.

11. Data request number 8 seeks information about how the operating agreement between AWE and the Antrim Selectboard (Appendix 17a of the Application) was negotiated. The Applicant similarly objects to this question on the grounds it is “burdensome, unreasonable, irrelevant, and not likely to lead to the discovery of admissible evidence.” The Block Group believes this information is important to assessing the issue of accountability of the Applicant.

12. Data requests 18, 19, 20, and 21 seek additional photo simulations of the proposed project from various sites with consideration to the views during the winter months. The Applicant objects to this question on the grounds it is “burdensome, unreasonable and unlikely to lead to the discovery of admissible evidence” and that “the production of the requested simulations is unnecessary and would result in the creation of unduly repetitious information.” The Block Group believes that the photo simulations contained in the Visual Impact Assessment are not complete and that, since these requests are for areas not considered in the VIA and for a time of year not addressed, that this is a reasonable request to address the concerns of year-round residents.

13. The Block Group has requested the other parties to assent to this motion. Assenting intervenors include New Hampshire Audubon, Industrial Wind Action Group, Katherine Sullivan, Sam and Michelle Apkarian, Elsa Voelcker, Mark and Brenda Schaefer, Janice Longgood, and Clark Craig Jr. Taking no position are the Harris Center and the US Army Corps of Engineers. No other parties responded.

Therefore, the Block Group of North Branch Intervenors respectfully asks that the Committee:

- A. Compel the Applicant to deliver the information asked for in the Block Groups’ data requests number 1, 2, 7, 8, 9, 10, 15, 18, 19, 20, and 21;
- B. Grant such further relief as it deems equitable and appropriate.

Respectfully submitted this 26th day of June, 2012,

North Branch Group of Intervenors, by:

A handwritten signature in black ink, appearing to be 'Richard Block', written over a horizontal line.

Richard Block

Richard Block  
63 Loveren Mill Road  
Antrim, New Hampshire 03440  
603-588-2552  
[snowstar@tds.net](mailto:snowstar@tds.net)

cc: Parties to Docket 2012-01

**EXHIBIT A:**

THE STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

Docket No. 2012-01

Application of Antrim Wind Energy LLC  
For a Certificate of Site and Facility  
For Antrim Wind Energy in Antrim, New Hampshire

Received June 1, 2012  
Request No. Block 1-1

Date of Response: June 20, 2012  
Witness: Jack Kenworthy

---

**REQUEST:**

During the presentation at the SEC hearing in Antrim on April 30<sup>th</sup>, 2012, Jack Kenworthy predicted a wind production rate “in the high 30s.” In the prefiled direct testimony of Jack Kenworthy, Page 10, Line 17, you likewise projected an average annual net capacity factor of 37.5% – 40.5% for your Antrim facility. Please provide the on-site wind resource measurement data and analyses of both this data and the specific conditions in Antrim for this projection.

**RESPONSE:** Please see response to Data Request 1-14 from the Antrim Planning Board.

---

Received June 1, 2012  
Request No. Block 1-2

Date of Response: June 20, 2012  
Witness: Jack Kenworthy

---

**REQUEST:**

Please provide accurate counts as to the exact number of residences, broken down into seasonal and year-round subtotals, for a) one-half mile radius from the turbines, b) one mile radius from the turbines, and c) two mile radius from the turbines.

**RESPONSE:** A map showing residences within 1/2 mile and one mile of the turbines is included in Figure C3 of AWE’s application. There are zero residences within 1/2 mile. There are, to the best of AWE’s knowledge, approximately 98 residences within 1 mile. The Applicant respectfully objects to the remainder of this question on the grounds that it is unreasonable and onerous.

Received June 1, 2012  
Request No. Block 1-7

Date of Response: June 20, 2012  
Witness: Jack Kenworthy

---

**REQUEST:**

Please identify any and all meetings, conferences, and presentations held between any member of Eolian Renewables, LLC or Antrim Wind, LLC, or any other person affiliated with these companies, and any one or more members of any Town Board in Antrim, including but not limited to the Selectboard, the Planning Board, and the Zoning Board of Adjustment, or any other Town of Antrim official or employee, whether such meeting, conference, or presentation was conducted in a public forum or in private, since January 1, 2009. Please identify all persons in attendance and provide copies of all documents relating to such meetings.

**RESPONSE:** The Applicant respectfully objects to this question on the grounds that it is burdensome, unreasonable, irrelevant and not likely to lead to the discovery of admissible evidence.

---

Received June 1, 2012  
Request No. Block 1-8

Date of Response: June 20, 2012  
Witness: Jack Kenworthy

---

**REQUEST:**

For the "Agreement between the Town of Antrim and Antrim Wind Energy, LLC," included in your application as Volume 3, Appendix 17A, please identify the specific source or sources of each part of this document, and identify which person drafted each clause. Please identify which portions were provided by Antrim Wind, LLC (including by their Counsel), which portions were provided by the Town of Antrim (including by Town Counsel), which portions were created jointly, which portions were created by other individuals, and which portions were derived largely from previous documents. Please specify any and all meetings between Antrim Wind, LLC and/or its representatives and the Town of Antrim and/or its representatives held to discuss, draft, and revise this document.

**RESPONSE:** The Applicant respectfully objects to this question on the grounds that it is burdensome, unreasonable, irrelevant and not likely to lead to the discovery of admissible evidence. Without waiving this objection, the Applicant responds as follows: the Agreement was based upon similar agreements between other NH towns and wind developers/owners. The document was adapted to meet the needs of AWE's project and the Town of Antrim through a negotiation process.

Received June 1, 2012  
Request No. Block 1-9

Date of Response: June 20, 2012  
Witness: Rob O'Neil

---

**REQUEST:**

Please provide turbine sound data as projected for the central portion of our land at Parcel # 208- 003-000 off Old Windsor Road. Please include both audible and subsonic projections for night time, day time, and four seasonal variations.

**RESPONSE:** Worst-case (loudest) sound levels from all wind turbines operating, day or night, is expected to be 33 to 34 dBA in the central portion of this parcel. This can occur in any season. With regard to "subsonic" projections, we would classify that as data in the low frequency octave bands (31.5, 63, 125 Hz). Expected sound levels at these octave bands approximately 6,000 feet away will be way below any thresholds for perceptible vibration or annoyance according to ANSI standards S12.2 or S12.9 Part 4.<sup>1</sup>

---

<sup>1</sup>O'Neal, R.D., Hellweg, Jr., R.D. and R. M. Lampeter, 2011. Low frequency sound and infrasound from wind turbines. Noise Control Engineering Journal, **59** (2), 135-157.

---

Received June 1, 2012  
Request No. Block 1-10

Date of Response: June 20, 2012  
Witness: Rob O'Neil

---

**REQUEST:**

Please provide turbine sound data as projected for the residence of Annie Law and Robert Cleland, Parcel # 208-015-000 at 43 Farmstead Road. Please include both audible and subsonic projections for night time, day time, and four seasonal variations.

**RESPONSE:** This location is east of Liberty Farm Road and north of Stacy Hill Road approximately 7,500 feet from the nearest turbine (#1). Worst-case (loudest) sound levels from all wind turbines operating, day or night, is expected to be 31 dBA. This can occur in any season. With regard to "subsonic" projections, we would classify that as data in the low frequency octave bands (31.5, 63, 125 Hz). Expected sound levels at these octave bands 7,500 feet away will be way below any thresholds for perceptible vibration or annoyance according to ANSI standards S12.2 or S12.9 Part 4.<sup>2</sup>

---

<sup>2</sup>O'Neal, R.D., Hellweg, Jr., R.D. and R. M. Lampeter, 2011. Low frequency sound and infrasound from wind turbines. Noise Control Engineering Journal, **59** (2), 135-157.

Received June 1, 2012  
Request No. Block 1-15

Date of Response: June 20, 2012  
Witness: John Guariglia

---

**REQUEST:**

Since the version of the VIA (Appendix 9A) on the SEC website does not seem to include them, could you please supply the standard 50mm single frame simulations without hazing applied for the following key receptor locations:

- a. Salmon Brook Road
- b. Summit of Bald Mountain
- c. dePierrefeu-Willard Pond Wildlife Sanctuary
- d. Gregg Lake Road
- e. Gregg Lake Town Beach

**RESPONSE:** The Applicant respectfully objects to this request on the ground that the response is unlikely to lead to the discovery of admissible evidence. Without waiving this objection, the Applicant responds as follows: For this project, atmospheric effects were set at a very low level to match the clear weather conditions on the days the baseline photographs were taken. Therefore hazing does not diminish the clarity of the simulated turbines in any view. Accordingly, the requested simulations (i.e. those without hazing) would not materially differ from the simulations provided.

---

Received June 1, 2012  
Request No. Block 1-18

Date of Response: June 20, 2012  
Witness: John Guariglia

---

**REQUEST:**

Please provide a visual simulation of winter views without haze of the proposed turbines as seen from south end of Loveren Mill Road at the entrance to the Nature Conservancy's Loveren Mill Cedar Swamp Preserve.

**RESPONSE:** The Applicant respectfully objects to this request on the grounds that it is burdensome, unreasonable and unlikely to lead to the discovery of admissible evidence. Without waiving this objection, the Applicant responds as follows: The photo simulations and other information contained in the Visual Impact Assessment adequately disclose the project's aesthetic impacts. Therefore, the production of the requested simulations is unnecessary and would result in the creation of unduly repetitious information.



Received June 1, 2012  
Request No. Block 1-19

Date of Response: June 20, 2012  
Witness: John Guariglia

---

**REQUEST:**

Please provide a visual simulation of winter views without haze of the proposed turbines as seen from Liberty Farm Road at the driveway to 48 Liberty Farm Road.

**RESPONSE:** Please see response to question 1-18, above.

---

Received June 1, 2012  
Request No. Block 1-20

Date of Response: June 20, 2012  
Witness: John Guariglia

---

**REQUEST:**

20: Please provide a visual simulation of winter views without haze of the proposed turbines as seen from the south side of the residence of Annie Law and Robert Cleland, Parcel # 208-015- 000 at 43 Farmstead Road.

**RESPONSE:** Please see the response to question 1-18, above.

---

Received June 1, 2012  
Request No. Block 1-21

Date of Response: June 20, 2012  
Witness: John Guariglia

---

**REQUEST:**

Please provide simulations without haze of the turbine views from both Willard Pond and Gregg Lake adjusted for winter and the lack of foliage cover.

**RESPONSE:** Please see the response to question 1-18, above. Without waiving its objection, the Applicant responds as follows: The photo simulations provided in the visual impact assessment report illustrate views during the fall season when the largest number of residents and visitors are likely to experience outdoor views. Although the project will appear somewhat different in character during the winter months, the degree of project visibility from Willard Pond and Gregg Lake will not be appreciably different during leaf-off season.