

**Application for Certificate of Site and Facility )**  
**Antrim Wind Energy, LLC )**  
**SEC Docket No. 2012-01 )**

Intervenor Appalachian Mountain Club (“AMC”) respectfully moves for an order directing Antrim Wind Energy, LLC (the “Applicant”) to produce relevant information sought by AMC through data requests of June 1, 2012. The AMC contends that the Applicant’s responses to certain data requests set forth their response of June 20, 2012 are insufficiently responsive and that evidence exists that additional relevant information is available.

“Please provide the data or information base used to justify the stated assumption “that natural conditions of atmospheric and linear perspective will mitigate potential visual impacts beyond 5 miles for this Project at this location, hence are not in need of further study”. ”

“In the case of this project, the VIA does not extend beyond five miles because the five-mile radius viewshed (VIA Figure 2) indicates minimal visual impact at distances approaching the five mile study limit due to the presence of significant intervening landform and forest vegetation. Since minimal visual impact is found at distances less than five miles, it is unlikely that significant project visibility will occur in the background distance zone. Therefore, extended analysis beyond the primary study area would provide little additional relevant information.”

### AMC Data Request 1-3

“Please provide a map and an expanded list of visual resources impacted to a 10 mile radius from the project that are not topographically or vegetatively screened, and the expected duration and number of turbines to be seen from those vantage points. Please provide these data in the same Figure and Table format as those used for the 5 mile radius analysis, i.e. Figures 1 and 2 and Table 2 in Appendix 9. Please also provide the raw ARC data files used to generate Figures 1 and 2 for a 10 mile radius.”

### Applicant’s Response

“For the reasons discussed in response to Request No. Block 1-2, the requested information is irrelevant and unnecessary. The Applicant, therefore, objects to this request on that ground and on the ground that the request is unduly burdensome and unlikely to lead to the discovery of admissible evidence.”

### Relief Sought and Justification

AMC contends that the Applicant’s contention that extension of the visual analysis beyond five miles is “unlikely to lead to the discovery of admissible evidence” is demonstrably in error. In support of this contention, we note:

- Both the Granite Reliable Windpark (SEC Docket No. 2008-04) and Groton Wind (SEC Docket No. 2010-01) conducted visual impact analyses extending out to ten miles, and developed simulations for viewpoints beyond five miles. In the interest of fairness, the SEC should hold the Applicant to the same standard as previous applications.
- Pitcher Mountain in Stoddard lies approximately 6.5 miles northwest of the proposed Project. This mountain is included in AMC’s *Southern New Hampshire Trail Guide*, lies along the Sunapee- Monadnock Greenway Trail, and has an open summit with a fire tower providing 360° views. Several websites note its easy accessibility and spectacular summit views<sup>1</sup>. This site clearly qualifies as a regionally significant scenic viewpoint.

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<sup>1</sup> See for example <http://www.theheartofnewengland.com/travel-PitcherMountain.html> and <http://www.summitpost.org/pitcher-mountain/152081>.

- The existing Granite Reliable Windpark is clearly and prominently visible from Route 16 along the Pontook Reservoir at a distance of 6.5-7 miles<sup>2</sup>.

The Applicant's contention that there is no relevant information to be gained by extending the scenic analysis beyond five miles is not supportable. The AMC contends that the impact on scenic resources beyond five miles (including but not necessarily limited to Pitcher Mountain) is both relevant and necessary for a complete evaluation of the visual impacts of the project. The AMC renews its request for the information sought in data requests 1-2 and 1-3.

#### AMC Data Request 1-7

"Please provide the data and assumptions used as to why the Application remained silent on these commercially available technologies that are reasonable mitigation strategies to tone back the large visual intrusions this project would have on the landscape, including visually prominent tower coloration and night time red lighting for FAA required aircraft warning. Please also provide any correspondence and communications with vendors of these products and any cost estimates of deploying such technologies with this project."

#### Applicant's Response

"Obstruction lighting requirements for structures over 200 feet tall in the United States are regulated by the Federal Aviation Administration (FAA). AWE will comply with the lighting requirements of the FAA, which at this time require red synchronized lights on 6 of 10 turbines and all turbine structures painted white. Upon information and belief, the use of radar activated lighting systems on wind turbines in the United States has been tested experimentally in at least one location that AWE is aware of – NextEra's Perrin Ranch Wind Farm in Arizona – but it has not been approved by the FAA for use on wind turbines in the United States at this time."

#### Relief Sought and Justification

The AMC notes that in Appendix 2E of the Application (FAA Determinations), several "Determination of No Hazard to Air Navigation" forms contain the statement from FAA that "Your request for consideration to utilize an Audio Visual Warning System to operate the White

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<sup>2</sup> A photograph from this viewpoint can be provided upon request.

Paint Only is not approved.” In order for the FAA to have responded in this fashion, the Applicant must have developed a plan for the utilization of this technology for submission to the FAA.

The AMC also notes that the FAA included in their determinations a note stating "*The FAA has scheduled a lighting study to establish standards for AVWS use on wind farms. We plan to complete this study within the next 6 months, and are confident we will have standards for AVWS as a lighting option for wind turbine farms. If you can defer your lighting request until after we complete our study, we will be able to review lighting options for AVWS then.*" This note was included in a form dated December 5, 2011 (over six months ago). It is possible that FAA will have these standards in place prior to completion of this permitting process, and there is a greater possibility that they will be in place prior to project construction if it is approved. The potential thus exists for this technology to be utilized to mitigate the visual impact of the project, making information on the technology highly relevant.

The AMC thus renews its request for the information sought in Data Request 1-7, information that the Applicant must possess in order for it to have been included in its submission to FAA.

AMC sought concurrence with this motion from other parties and intervenors. The Applicant did not respond. New Hampshire Audubon, the Schaefer family, Antrim Conservation Commission, Industrial Wind Action Group, the North Branch group and Allen/Edwards concurred. Harris Center took no position. Other parties did not respond.

The AMC thus respectfully requests that the Applicant be compelled to provide the information requested in AMC Data Requests 1-2, 1-3 and 1-7 in a timely manner.

Submitted June 28, 2012.



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cc: Service List for Docket 2012-01

### **Certificate of Service**

I, David A. Publicover, do hereby certify that I caused the foregoing to be served upon each of the parties named in the Service List of this Docket.

Date: June 28, 2012

A handwritten signature in black ink, appearing to read "David A. Publicover". The signature is written in a cursive, flowing style with a prominent initial "D".

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