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(Of Counsel)

July 12, 2012

Via Hand Delivery and Electronic Mail

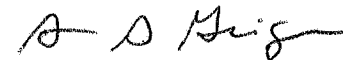
Ms. Jane Murray, Secretary
New Hampshire Site Evaluation Committee
N.H. Department of Environmental Services
29 Hazen Drive
Concord, NH 03302-0095

***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 an original and 9 copies of Applicant's Unassented-To Motion for Protective Order and Confidential Treatment, and an original and 9 copies of Applicant's Unassented-To Motion for Protective Order and Confidential Treatment for Acciona Sound Data. Also enclosed are two sealed envelopes containing copies of the confidential documents that are the subjects of the enclosed motions. Please contact me if there are any questions about this filing. Thank you.

Very truly yours,


Susan S. Geiger

Enclosures

cc: Service List, excluding Committee Members
Clark A. Craig, Jr. (by first class mail)

900937_1

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

DOCKET NO. 2012-01

**APPLICATION OF ANTRIM WIND ENERGY, LLC
FOR A CERTIFICATE OF SITE AND FACILITY**

**APPLICANT'S UNASSENTED-TO MOTION FOR PROTECTIVE ORDER AND
CONFIDENTIAL TREATMENT**

NOW COMES Antrim Wind Energy, LLC ("AWE" or "the Applicant") by and through its undersigned attorneys, and respectfully moves that the Site Evaluation Committee ("SEC" or "Committee") issue a protective order which preserves the confidentiality of information described below that the Applicant has agreed to provide in response to certain data requests propounded in the above-captioned matter. In support of this Motion, AWE states as follows:

1. Counsel for the Public has propounded the following written data requests to the Applicant: Data Request 9- Reed & Reed's cost estimates; Data Request 14 – the Project's pro forma financial model; Data Request 16 – copies of documents relating to agreements between the Applicant, Westerly Wind and Mr. Cofelice; Data Request 18 – a document relating to meetings or teleconferences held between Mr. Pasqualini and the Applicant, Mr. Kenworthy, Mr. Soininen or any other person associated with or employed by the Applicant since January 1, 2009.

2. At the technical sessions held June 27 – June 29, 2012, parties requested the following information from the Applicant:

TS 1-3: A copy of the option agreement that would permit the Applicant to purchase the land upon which the substation is to be sited.

TS 1-9: A spread sheet or similar data aggregation explaining the statement that “Antrim Wind has spent over \$1.85 million to-date on development activities with over 45% being spent in New Hampshire on services such as professional services, surveying, legal, and project impact analysis.”

TS 1-12: All spreadsheets and quotes containing expected capital expenditures and labor estimates for the project as referenced in footnote 1, Appendix 14B.

TS 1-13: The Project’s pro forma schedule.

TS 1-17: Scenario pro forma schedules.

3. The above-described information, with the exception of the scenario pro forma schedules¹, is submitted herewith, has been marked confidential and been placed in a sealed envelope. This information is commercially sensitive and proprietary, and is not disclosed publicly. The electricity generation and related markets are intensely competitive. Competitive generators safeguard this information, and do not disclose it to the public or to one another for various reasons, some of which relate to preserving their negotiating positions in commercial transactions with third parties. Disclosure of this sensitive commercial and proprietary information to the general public or to competitors of AWE would be extremely damaging if not fatal to the Project.

4. 4. RSA 91-A:5, IV. provides, *inter alia*, that records pertaining to confidential, commercial or financial information, and other files whose disclosure would

¹ The Applicant seeks a protective order for this information, but has not yet developed it. At the technical sessions in this docket, the Applicant indicated that it would make its financial consultants available to Counsel for the Public and that either the Applicant or its financial consultants would run additional pro forma scenarios as necessary.

constitute an invasion of privacy, are exempt from the public disclosure requirements of RSA 91-A. The New Hampshire Supreme Court has determined that “overhead and operating costs” as well as “financial condition” information constitute “commercial or financial” information within the meaning of RSA 91-A:5, IV. *Union Leader Corp. v. New Hampshire Housing Finance Authority*, 142 N.H. 540, 553 (1997). This Committee has determined that financial information of a non-publicly held applicant for a certificate of site and facility (such as AWE) need not be disclosed to the public **or to other parties**, except for Counsel for the Public, due to his important statutory role pursuant to RSA 162-H:9. *See Application of Groton Wind, LLC*, SEC Docket No. 2010-01, Order on Pending Motions and Further Procedural Order (Dec. 14, 2010) at 2. The Committee reached this result after applying the three-pronged analysis in *Lambert v. Belknap County Convention*, 157 N.H. 375 (2008) and *Lamy v. New Hampshire Public Utilities Commission*, 152 N.H. 106 (2005) to determine whether information is exempt from public disclosure under RSA 91-A, IV.

5. Applying the *Lambert/Lamy* analysis to the instant data requests compels the same result as the *Groton Wind* order: 1) The Applicant has identified a privacy interest in the information as demonstrated above. 2) There is no public interest in disclosure of this information, because the Committee need not rely on this information to support a finding of financial capability. As has been noted in the instant docket, the relevant inquiry concerning the issue of the Applicant’s financial capability does not focus upon the assets the Applicant owns, or its specific financial information. Instead, it is the Applicant’s “near-term prospect for project financing” that will support a finding of financial capability. *Re: Application of Antrim Wind Energy, LLC*, Order on

Unassented-to Motion for Protective Order and Confidential Treatment (June 4, 2012) at 3-4. 3) Lastly, even assuming, *arguendo*, that there is a public interest in disclosure of this information, that interest is greatly outweighed by AWE's privacy interests in non-disclosure as described above.

6. In view of the foregoing, the Committee should issue an order that protects the above-described confidential information from public disclosure, and from disclosure to parties other than Counsel for the Public. This Committee has recognized that Counsel for the Public has an important statutory role in this proceeding and that his full and vigorous participation is necessary to insure that the goals of RSA 162-H are met. *See Re: Application of Antrim Wind Energy, LLC*, Order on Unassented-to Motion for Protective Order and Confidential Treatment (June 4, 2012) at 4. Thus, given Counsel for the Public's unique role in the instant proceeding, it is unnecessary for other parties to have access to this competitively sensitive confidential information.

7. In the alternative, if the Committee deems it appropriate for parties in addition to Counsel for the Public to have access to this sensitive confidential information, the Applicant respectfully requests that the Committee issue a protective order containing provisions similar to those contained in the Order Granting Applicant's Motion for Protective Order/Confidential Treatment issued in SEC Docket No. 2006-01, *Re: Community Energy, Inc. and Lempster Wind, L.L.C.*, (Oct. 17, 2006) ("Lempster Wind Confidentiality Order"). Those provisions are as follows:

This information shall [therefore] be marked confidential. One copy shall be filed with the Committee and maintained in a secure file separate from the public records of the proceedings in this matter.

If a party desires to view the confidential information, said party will execute a protective agreement in the form set forth in Appendix A², and forward true copies of the agreement to the Applicant and the Committee. Only parties authorized by the Committee, after receipt of the executed protective agreement, shall be afforded access to the confidential information. The parties shall not make any copies of such information or use the information for purposes other than the preparation for, and conduct of, the proceedings in this docket.

Unless otherwise ordered, the parties shall not reference the confidential information during public proceedings in this docket or at any time in public. Unless otherwise ordered, upon completion of this proceeding and any resulting appeals, the Parties shall destroy any notes referencing the confidential information and return all confidential information to the Applicant. Within sixty days after the completion of this proceeding, or any resulting appeal, each Party shall certify to the Applicant that said notes have been destroyed and all confidential information returned. The rights of the Parties under this Order are not assignable and may not be transferred in any manner.

Lempster Wind Confidentiality Order at 2.

8. In addition to the foregoing provisions, in order to minimize the risk of inappropriate disclosure of the Applicant's protected confidential information, the Applicant respectfully requests that the Committee's Protective Order: 1) Specify that the Applicant is not required to provide confidential information via electronic mail to the parties, other than Counsel for the Public; and 2) Specify that if parties other than Counsel for the Public are to be afforded access to the protected information, such access shall occur by viewing the confidential information at the Committee's offices.

9. Pursuant to N.H. Admin. Rule Site 202.14 (d), the undersigned has contacted the parties to this docket in an effort to determine their positions on the within motion. The following parties have responded with their positions noted below: The Harris Center for Conservation Education neither supports nor opposes the motion. Industrial Wind

² A sample Appendix A is submitted herewith.

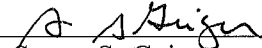
Action Group partially consents to protective treatment of this information. IWA objects to the applicant's claims that other parties beyond Counsel for the Public have no reason to have access to the information, and alleges this claim is not supported by statute or any ruling made by the Committee to date. IWA objects to the requested restrictions for accessing the information by parties other than Counsel for the Public, including in-person viewings at the Committee's office. IWAG alleges there is no precedence for this requirement from prior proceedings, and that such unreasonable restrictions, if imposed, will impair the orderly and prompt conduct of the proceedings. Finally, IWA "objects to the excessive delay by the applicant in filing this motion given that he has had data requests in hand since June 1, motions to compel filed as far back as June 22, and the technical session confirming the need for this information was two weeks ago."

WHEREFORE, AWE respectfully requests that this Committee:

- A. Issue a protective order containing the provisions requested herein that preserves the confidentiality of the documents that are the subject of this Motion; and
- B. Grant such further relief as it deems appropriate.

Respectfully submitted,

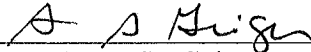
Antrim Wind Energy, LLC
By its attorneys,
ORR & RENO, P.A.
One Eagle Square
P.O. Box 3550
Concord, NH 03302-3550

By: 
Susan S. Geiger
Telephone: (603) 223-9154
Email: sgeiger@orr-reno.com

July 12, 2012

Certificate of Service

I hereby certify that on this 12th day of July, 2012, a copy of the foregoing Motion was sent by electronic or U.S. mail, postage prepaid, to persons named on the Service List of this docket, excluding Committee Members.



Susan S. Geiger

900347_1

APPENDIX A

THE STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

Docket No. 2012-01

Application of Antrim Wind Energy, LLC

I, _____, hereby certify that I am a party to the above-captioned proceeding and in connection with my interests therein, I request to be given access to the following Confidential Information maintained by the Site Evaluation Committee: _____.

I further certify that I have read the Site Evaluation Committee's protective order issued in the above-captioned matter, understand it and agree to be bound by it. I understand that this Appendix A does not authorize my access to the Confidential Information identified above until I have signed and delivered it to counsel for Antrim Wind Energy, LLC and until it has been provided to the Site Evaluation Committee by said counsel.

Dated: _____

Signature of Party to Docket No. 2012-01