

**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)
the town of Antrim, Hillsborough County, New Hampshire and)
operate the same (SEC Docket 2012-01).)

**MOTION TO COMPEL ANTRIM WIND LLC TO RESPOND TO
TECHNICAL SESSION DATA REQUESTS**

The Industrial Wind Action Group, Inc. ('IWA') respectfully requests that the NH Site Evaluation Committee ('SEC' or 'Committee') compel Antrim Wind, LLC ('Applicant') respond to data requests resulting from the June 27-29 technical session. In support of its motion, IWA states as follows:

I. INTRODUCTION

1. The Committee, through its *Order on Motions to Intervene* dated May 18, 2012, granted IWA permission to fully participate as an intervenor pursuant to RSA 541-A:32, II.

2. SEC Site 202.12 (a) provides for the use of data requests in various forms "when such discover 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. IWA propounded an initial set of data requests on the Applicant on June 1, 2012 per the procedural schedule. The Applicant refused to address three of IWA's data requests (13, 14, and 15) citing "competitively sensitive commercial and financial information". On June 22, 2012, IWA filed a motion to compel¹ involving these three data requests.

4. The Committee has not issued a decision on IWA's pending motion to compel.

¹ The Applicant objected to IWA's motion. On July 4, 2012, IWA submitted a response to the Applicant's objection.

5. Since IWA's first motion to compel, the parties participated in a technical session (June 27-29). Additional data requests were submitted to the Applicant.

6. Attorney Iacopino prepared the July 3, 2012 technical session memo where all data requests resulting from the technical session were detailed. On July 12 the Applicant responded to the data requests. A number of the requests were objected to by the Applicant including TS-3, TS 1-9, TS 1-15, TS 1-16, TS 1-17, TS 1-18, TS 1-25 and TS 1-48 which are the subject of this motion.

II DATA REQUESTS

7. The eight data requests cited in paragraph 6 above were produced during the technical session. This section of the motion lists the reasons given by the Applicant for objecting to each data request and IWA's brief explanation for why the Applicant should be compelled to respond.

a. TS 1-3: Please provide a copy of the option agreement that would permit the applicant the ability to purchase the land upon which the substation is to be sited.

The Applicant objected to this data request claiming the information was irrelevant and that it entailed competitively sensitive commercial and financial information that was confidential and privileged. The Applicant agreed to share the information with Counsel for the Public provided the Committee granted protective treatment of the information.

The claim that this information is irrelevant to this proceeding is unsubstantiated. The fact that the Applicant asked the Committee to assume the power of subdivision, makes the information relevant to this proceeding. The Applicant, once again, insists the only party eligible to receive this information is Counsel for the Public. As stated in IWA's July 4, 2012 response to the Applicant's prior objections, there is no provision in the statute that specifically limits the issues or the vigor with which other parties can participate in the proceeding. The presiding officer has the power to limit party participation under RSA 541-A:32 but we remind the Applicant that IWA was granted full intervenor status with no such limits.

b. TS 1-9: Please provide 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.” (Application of Antrim Wind Energy at p. 102)

Astonishingly, the Applicant objected to this data request claiming that information justifying his own assertion in the Application was irrelevant and that the information was competitively sensitive commercial and financial information. If the Applicant is unwilling to provide justification to support claims in his documents than such claims should be removed from the Application. Otherwise, the Applicant should be required to respond. Since IWA is not privy to this information, nor has the Applicant adequately explained what this information entails, IWA does not support the Committee granting protective treatment.

c. TS 1-15 and TS 1-16: Please provide the Renewable Energy Certificate (REC) price that the applicant requires for the proposed project to be financially viable. Please provide the price for power under a power purchase agreement that will be necessary for the applicant to make the proposed project financially viable.

The Applicant objected to these two data requests claiming the information was irrelevant and entailed competitively sensitive commercial and financial information that was confidential and privileged. The Applicant's ability to finance this project is entirely reliant on the price of the energy, renewable energy credits and any capacity awarded the project. This information is germane to this proceeding and should be made available to all parties seeking the information. IWA does not object to the information being granted protective treatment.

d. TS 1-17: Please provide all scenario pro formas for the proposed project.

The Applicant objected to this data request claiming the information was irrelevant and entailed competitively sensitive commercial and financial information that was confidential and privileged. This request seeks information that directly pertains to the financial viability of the project if certain federal subsidies are eliminated or the federal benefits reduced. This information is necessary in evaluating the project's viability as well as the Applicant's ability to secure financing for the project. Thus, the information is entirely relevant to this proceeding and should be made available to all parties seeking the information. IWA does not object to the information being granted protective treatment.

e. TS 1-18: Please provide the P90 capacity factor.

The Applicant insists the P50 capacity factor for the project will be over 35%. This capacity factor exceeds the production figures for all wind energy facilities operating in the Northeast including New York. The P90 figure for this project will reveal the confidence the Applicant has in the project's anticipated performance and relates directly to the financial viability of the project. IWA does not object to the information being granted protective treatment.

f. TS 1-25: Please provide the net capacity factors running at higher cut-in speeds over the long term.

The Applicant objected to this data request claiming the information was irrelevant and entailed competitively sensitive commercial and financial information that was confidential and privileged. This request seeks information pertaining to the financial viability of the project if certain mitigation measures were implemented to reduce impacts on birds and bats. These mitigation measures include changing the cut-in wind speed of the turbines. This information is necessary in evaluating the project's viability if the mitigation is triggered. The Applicant's ability to secure financing for the project given long-term implementation of the these mitigations measures are an important consideration before the Committee. Thus, the information is entirely relevant to this proceeding and should be made available to all parties seeking the information. IWA does not object to the information being granted protective treatment.

g. TS 1-48: Please provide the ISO Draft Feasibility Study.

The Applicant received a Draft Feasibility report from the ISO-NE related to the project's interconnect to the grid. The Applicant insists the ISO-NE has imposed confidentiality requirements under the Confidential Energy Infrastructure Information (CEII) restrictions which he does not have the authority to waive. In fact, the Applicant has the authority to share the content of this report. The Applicant erred in stating at the technical session that CEII clearance for specific projects had a different level of CEII security.

This information is essential in evaluating transmission congestion and opportunity for the project to displace nearby power plants that might also be fueled by renewables. The draft feasibility study is the only information available for the project that contemplates how the project might interact with other plants on the grid. Access to the finished document prior to the hearings in September is not assured. IWA agrees that this information should be treated as confidential but we do not accept that the information cannot be shared with parties who abide by the confidentiality agreement

8. IWA received assents on this motion from the following parties: North Branch Intervenors Group, Counsel for the Public and New Hampshire Audubon. The Harris Center for Conservation Education took no position on the motion.

We respectfully ask that the Committee:

- A. Compel the Applicant to deliver the information requested following the technical session. Continued objections by the Applicant are directly interfering with the prompt and orderly conduct of this proceeding;
- B. Grant such further relief as it deems equitable and appropriate.

Dated this day of July 23, 2012

INDUSTRIAL WIND ACTION GROUP

By:



Lisa Linowes

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cc: Parties to Docket 2012-01

MEMORANDUM

To: All Technical Session Participants
Application of Antrim Wind, LLC
NH SEC Docket No. 2012-01

From: Mike Iacopino

Date: July 3, 2012

Re: Technical Session No. 1
Data Requests

The following are the outstanding data requests that were made during the technical sessions held from June 27, 2012 through June 29, 2012 (applicant's witnesses). The Applicant must respond to the requests before the close of business on July 12, 2012.

The Applicant has already noted objections to some of the requests. Those objections are noted in this memo. If any party wishes a formal resolution of the request by the Chairman of the committee they must file a motion to compel the answer. The parties are strongly encouraged to discuss their requests and attempt to resolve the issues by agreement.

Requests to panel of Mr. Kenworthy, Mr. Martin and Mr. Butler (construction design, decommissioning; water quality and public health and safety issues):

1. Please provide a copy of the power point presentation delivered at the public information hearing on April 30, 2012. *(Copies were made available during the technical sessions both on paper and electronically.)*
2. Please confirm with your engineers (RLC) whether their opinion that no stray voltage will occur (Application p. 99) also applies to stray voltage that may emanate from the overhead portions of the transmission line from the ridge down to the substation.
3. Please provide a copy of the option agreement that would permit the applicant the ability to purchase the land upon which the substation is to be sited. *(This request may require a motion for protective order per Mr. Kenworthy.)*
4. Please confirm that the maximum grade for the access road is 13% and that the grade is within the normal range that can be reasonably negotiated by a fire truck that is reasonably equipped.

Requests to panel of Mr. Magnusson and Mr. Kenworthy (economic development and the orderly development of the region):

5. Please provide *curriculum vitae* for Mr. Magnusson.
6. Please provide the data that was excluded (non-arm's length properties) from the Lempster Property Value Report. (*Potential objection from Applicant because the data may be proprietary or subject to copyright protection as an aggregated work. The Applicant will check and report back.*)
7. Please review and explain how the figure of 30% as set forth on p.11 (Table 5) of the economic report was derived.
8. Please review and explain how you determined there would be 86 full time jobs and how you determined that 23 of those jobs would be filled by New Hampshire workers.
9. Please provide 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."
10. Please provide the NAICS codes and an explanation of them for jobs included in the classification of green jobs as used in the economic report.

Requests to panel of Mr. Will and Mr. Stevenson (cultural, historical and archaeological resources):

11. None.

Requests to panel of Mr. Kenworthy, Mr. Cofelice, Mr. Pasqualini and Ms. Crivella (financial, technical and managerial capacity):

12. Please provide all spreadsheets and quotes containing expected capital expenditures and labor estimates for the project as reference in footnote 1, Appendix 14B. See, IWAG DR 1-13. ***Applicant objects. IWAG motion to compel.***
13. Please provide the pro forma schedule for the project. See, IWAG DR 1-14. ***Applicant objects. IWAG motion to compel.***
14. Regarding a long term power purchase agreement: Please provide the names of utilities or other entities AWE is negotiating with as well as the dollar amounts per kwh under consideration. ***See, IWAG DR 1-14. Applicant objects. IWAG motion to compel.***
- 15 Please provide the Renewable Energy Certificate (REC) price that the applicant requires for the proposed project to be financially viable. ***Applicant objects.***
16. Please provide the price for power under a power purchase agreement that will be necessary for the applicant to make the proposed project financially viable. ***Applicant objects.***

17. Please provide all scenario *pro formas* for the proposed project. ***Applicant objects.***

18. Please provide the P90 capacity factor. ***Applicant objects.***

19. Please provide your wind data report including the capacity factor based on wind data and the wind shear analysis. ***Applicant objects.***

Requests to panel of Adam Gravel and Dana Valteau (natural environment; wetlands; wildlife; wildlife habitat; studies pertaining to avian species and bats):

20. Please provide the revised version of the Avian Bat Protection Plan (ABPP).

21. Please identify where the Tuttle Plateau is.

22. Please provide an answer to the inquiry as to where Antrim falls within the map developed by the American Bird Conservancy.

23. Please provide a copy of the Smallwood study of the Altamont Pass re-powering project.

24. Please provide a copy of the Costa study.

25. Please provide the net capacity factors running at higher cut-in speeds over the long term. ***Applicant objects.***

26. Please provide documentation of the vernal pool assessment that was conducted on the subsequent visits to the site.

Requests to John Guariglia (visual impacts):

27. Please provided a photo simulation from Goodhue Hill. ***Applicant objects – repetitious of other simulation.*** (Note: this issue may be resolved if Counsel for the Public is granted authority to retain its own consultant with sufficient funds.)

28. Please provide an answer to the following inquiry: If a trail exists on Robb Mountain would the summit of Robb Mountain satisfy the criteria set forth on page 12 of the VIA?

29. Please provided a photo simulation from Robb Mountain. ***Applicant objects – repetitious of other simulation.*** (Note: this issue may be resolved if Counsel for the Public is granted authority to retain its own consultant with sufficient funds.)

30. Please provide an enhanced image of the photo shop manipulation demonstrating the existence of the MET tower in figures A-7 and A-8.

31. Please provide an expanded (enlarged) version of Figure 2.

32. Please provide the six individual still photos used to create the panorama photos.
33. Please provide the GPS co-ordinates for the Bald Mountain photo simulation site.
34. Please provide the GPS co-ordinates for each photo simulation site.
35. Please provide all submittals to the FAA and all correspondence with the FAAA dealing with the potential use of AVWF at the project.
36. Please provide a listing of all contacts with the FAA re AVWF proposals for the project.
37. Please provide the ARC GIS data used in the VIA.
38. Please provide a 10 mile view-shed map and identify the major potential view points within that area.

Requests to Robert O'Neal (sound impacts):

39. Please provide an ambient sound measurement at Willard Pond. ***Applicant objects – repetitious of other measured sites.*** (Note: this issue may be resolved if Counsel for the Public is granted authority to retain its own consultant with sufficient funds.)
40. Please provide a list of all sites at which you have performed post construction confirmatory modeling; identify the reports and all supplement reports.
41. Please provide your report regarding the Acciona 3000-116 in Iowa.
42. Please provide all data from the manufacturer that you used in determining the sound modeling.
43. Please provide your reports from you work at the Huron Michigan project where you did confirmatory testing.
44. Please provide the amount of time that the L-3 location in you r report was at 24dB.
45. Please provide a table with the ambient sound levels and predicted levels combined at both Le90 and Leq.
46. Please provide the paper authored by and referenced by Mr. O'Neal.
47. Please provide you original proposed scope of work submitted to the Applicant at the time of your engagement.

Requests to Dr. Colin High (emissions impacts):

48. Please provide the ISO Draft Feasibility Study. **Applicant objects.**
49. Please provide the fuel source and MW capacity of each source set forth on page 4 of the report.
50. Please determine and advise if the data in Tables 4 & 5 in the report are from before or after the conversion of the Schiller plant from coal to biomass.
51. Please provide the resource analysis reports referenced.
52. Please provide the embodied energy articles referenced.
53. Please provide the total percentage of global CO2 emissions that will be avoided by the proposed project.

If you have any questions or believe that this memo is incomplete please feel free to contact me at:

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Thank you.

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