

**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 PROHIBIT POST-HEARING SUBMISSIONS BY ANTRIM WIND LLC FROM BECOMING
PART OF THE RECORD AND TO STRIKE THE SUBMISSION BY CLIMATECOUNTS.ORG**

The Industrial Wind Action Group ('IWA') objects to recent post-hearing submissions by Antrim Wind Energy, LLC ('Applicant') and ClimateCounts.org and respectfully moves that the Presiding Officer for the New Hampshire Site Evaluation Committee ('Committee') act to prohibit these submissions from being distributed to the Committee and/or from being entered into the record for this docket. In support of this Motion, IWA states as follows:

1. The evidentiary portion of the proceeding in the above-captioned matter concluded on the afternoon of December 6, 2012.. The Committee's deliberations were conducted during the period from February 5 to February 7, 2013 and ended with the Committee voting 6-3 to deny a certificate of site and facility for Antrim Wind Energy.

2. On Thursday, April 25, 2013, the Applicant submitted a letter addressed to the Committee seeking to update Section B.4 of the Application. The letter explained that Mr. Steven Schauer was named an executive officer at Antrim Wind Energy, LLC and president of Westerly Antrim, LLC. The letter also included details of Mr. Schauer's work experience.

3. The change in personnel at Antrim Wind Energy, LLC and Westerly Antrim, LLC is entirely irrelevant to the above-captioned matter and should be withheld from the record. *See* RSA 541-A:33, II. (presiding officer may exclude irrelevant and immaterial evidence). The Committee's deliberations

and concluding vote to deny certification of the Project were based entirely on the record as it stood on February 5, 2013. The addition of another person to the Applicant's management team, nearly three months since the Committee voted to deny the Project, has no bearing on how the Committee reached its decision.

4. Assuming, *arguendo*, that this information is somehow relevant to the proceeding, the time period for introducing new information or amendments into the record has long-since passed. Allowing the introduction of this information into the record at this time is inappropriate and contrary to applicable rules and statute. N.H. Admin. Rule Site 202.26 provides that the record closes at the conclusion of a hearing unless a party requests that the record remain open to accommodate the filing of evidence, exhibits, or arguments "not available at the hearing" and the presiding officer agrees that such information is necessary to a full consideration of the issues raised at the hearing.

5. Allowing the introduction of this information into the record at this juncture violates the due process rights of IWA and other parties to this proceeding because there is no opportunity for the parties to respond to this information, or to cross-examine a witness in connection with it.

6. Should the presiding officer concluded that the change in personnel deserves mention in the record, we note that Section B.4 of the Application provides only the names and titles for the owners, officers, and managers of: Antrim Wind Energy, LLC; Eolian Antrim, LLC; or Westerly Antrim, LLC. Any information beyond name and title would be extraneous and should be withheld from the record.

7. On April 22, 2013, Ms. Jane Murray distributed a letter to the Service List for Antrim Wind Energy, LLC sent by ClimateCounts.org. The letter, dated April 17, asks the Committee to reconsider its decision to deny the a certificate for the Project.

8. ClimateChange.org did not intervene in this proceeding. At no time while the record was open did ClimateChange.org avail itself of the opportunity to submit public comment. Allowing this

letter into the record at this late date is inappropriate. All other public comment for this proceeding ended as of February 7, 2013, the last day of the Committee's deliberations. To continue to accept public comment and distribute the comments to the service list as well as post the comments on the Committee's website wrongly suggests the record is still open and comment can be accepted.

WHEREFORE, in view of the foregoing, IWA respectfully requests that this honorable Committee:

- A. Prohibit the submission of Applicant from being distributed and included in the record of this proceeding;
- B. Strike from the record of this proceeding the letter from ClimateChange.org;
- C. Order that the Applicant and other parties be prohibited from making any such future submissions that would expand or amend the record except for those submissions related to an appeal process; and
- D. Grant such further relief as it deems equitable and appropriate.

Dated this day of April 25, 2013

INDUSTRIAL WIND ACTION GROUP

By:



Lisa Linowes

cc: Parties to Docket 2012-01