

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

Docket No. 2012-01

**Re: Application of Antrim Wind Energy, LLC for a Certificate of Site
and Facility for a Renewable Energy Facility Proposed to be
Located in Antrim, Hillsborough County, New Hampshire**

May 16, 2013

**ORDER DENYING INDUSTRIAL WIND ACTION GROUP'S MOTION TO PROHIBIT
POST-HEARING SUBMISSIONS BY ANTRIM WIND, LLC, FROM BECOMING PART
OF THE RECORD AND TO STRIKE THE SUBMISSION BY CLIMATECOUNTS.ORG.
AND DENYING THE CLELAND LAW INTERVENORS' MOTION TO OBJECT**

Background

On January 31, 2012, Antrim Wind Energy, LLC (Applicant) filed an Application for a Certificate of Site and Facility (Application). The Applicant sought to site, construct and operate a 30 megawatt wind powered renewable energy facility (Facility) in the Town of Antrim, Hillsborough County, New Hampshire. Adjudicatory proceedings in this matter commenced on October 29, 2012. The Subcommittee assigned to this docket began public deliberations on February 5, 2013. On February 7, 2013, a majority of the Subcommittee voted to deny the Application for a Certificate of Site and Facility.

On April 17, 2013, the New Hampshire Site Evaluation Committee (Committee) received a letter from ClimateCounts.Org. expressing concern with the recent denial of the Certificate of Site and Facility. On April 25, 2013, the Applicant filed a letter with the Subcommittee advising of a change in project personnel. The letter informed the Subcommittee that Mr. Steve Schauer assumed the role of Executive Officer of Antrim Wind Energy, LLC, and replaced Mr. Joseph Cofelice as President of Westerly Antrim, LLC. The letter also contained a brief paragraph, containing three sentences, explaining Mr. Schauer's overall experience in the energy financing industry.

On April 25, 2013, Industrial Wind Action Group (IWAG) filed a Motion to Prohibit Post-Hearing Submissions by Antrim Wind, LLC from Becoming Part of the Record and to Strike the Submission by Climatecounts.Org. In its motion, IWAG points out that the evidentiary record concluded in this matter on December 6, 2012 at the conclusion of the adjudicatory proceeding. IWAG also recognized that the Subcommittee voted to deny the Application for a Certificate of Site and Facility on February 7, 2013.

On April 26, 2013, Intervenor, Robert Cleland and Annie Law filed a letter captioned as: "Motion to Object Letter from Climate Counts." The letter echoes the objection made by IWAG to the letter from Climate Counts and the submission from the Applicant.

The Applicant objected to IWAG's motion on April 29, 2013 and to the Cleland Law filing on May 1, 2013.

In its Motion, IWAG argues that it is inappropriate to allow the letter from ClimateCounts.org. into the record because the last day of the Subcommittee's deliberations was February 7, 2013. IWAG argues that accepting the ClimateCounts.org letter wrongly suggests that the record is still open and that comments will be accepted.

In addition, IWAG argues that the letter notifying the Subcommittee of the replacement of Mr. Cofelice by Mr. Schauer is irrelevant and should be withheld from the record. IWAG also argues that allowing the information contained in the Applicant's letter into the record would violate the due process rights of the other parties to the proceeding because there is no opportunity to respond to the information or to cross-examine any witness in connection with it.

The Cleland Law Intervenor joins in the arguments presented by IWAG and adds an allegation that the ClimateCounts.org letter distorts the positions of the parties, especially the position of the Appalachian Mountain Club.

The Applicant objects to both motions. The Applicant notes that RSA 162-H: 7, IX requires that the Site Evaluation Committee must be informed of any substantive modification to an application. The Applicant asserts that the replacement of key personnel and the qualifications of new personnel are substantive modifications to the application. The Applicant argues that it has a statutory obligation to amend the record.

The Applicant also objects to the motions filed by IWAG and the Cleland Law intervenors by noting that RSA 162-H: 10, III requires the Site Evaluation Committee to accept public comment before, during and subsequent to public hearings. Therefore, the Applicant argues that there is no basis to strike the ClimateCounts.org letter from the record.

Having considered the arguments, IWAG's motion and the Cleland Law motion are both denied, as detailed below.

Letter from ClimateCounts.org.

The letter from ClimateCounts.org. was received by the Secretary for the Committee on April 17, 2013. The letter was distributed to the service list and posted on the Committee's website. Additionally, the ClimateCounts.org letter was placed into the public comment file for this docket. RSA 162-H: 10, III states that "the Site Evaluation Committee shall consider and weigh all evidence presented at public hearings and shall consider and weigh written information and reports submitted to it by members of the public before, during and subsequent to public hearings." The statute goes on to require the Committee to grant free access to records and reports in its files to members of the public during normal working hours and to permit copies of

such records and reports to be made by interested members of the public at their own expense. See, RSA 162-H: 10, III. The written decision in this matter was not published until May 2, 2013. Therefore, the letter from ClimateCounts.org was received subsequent to the public hearings in this matter and will be made part of the record. However, it is noted that the ClimateCounts.org letter was not received prior to the deliberations of the Subcommittee and was not considered, nor could it have been considered, by the Subcommittee during its deliberations. Because the letter was not considered by the Subcommittee during its deliberations there is no due process violation.

Applicant's Letter with Information Regarding New Executive Officer

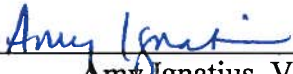
IWAG's Motion with respect to the Applicant's letter informing the Subcommittee of the replacement of Mr. Cofelice by Mr. Schauer is likewise denied. This docket is still open and motions for rehearing may be filed by aggrieved parties. The information provided in the letter from the Applicant is the type of information that is required by RSA 162-H: 7, I-V and by the Site Evaluation Committee's procedural rules. See, N.H. CODE OF ADMINISTRATIVE RULES SITE 301.03. The fact that the Applicant added a brief paragraph describing Mr. Schauer's overall experience does not render the letter to be an improper filing nor is it considered as a means to somehow influence the Subcommittee's deliberations. The Applicant has a statutory obligation to inform the Subcommittee of substantive modifications to the Application. See, RSA 162-H: 7, IX. Such modifications logically include the qualifications of new key personnel. Deliberations have concluded and a majority of the Subcommittee has voted to deny the Application for a Certificate of Site and Facility. Nevertheless, this docket remains open and the Applicant is required to inform the Committee of such changes. Therefore, the Motion is denied.

The Motion to Strike the letters from the record is denied. The ClimateCounts.org letter shall be included in the public comment file for this docket. The April 25, 2013 letter from the Applicant notifying the Subcommittee of the change in personnel will likewise be filed in this docket in the file reserved for the Application.

Conclusion

The Motion to Prohibit Post-Hearing Submissions by Antrim Wind LLC from Becoming Part of the Record and to Strike the Submission by ClimateCounts.Org as filed by IWAG is denied. The Motion to Object filed by the Cleland Law Intervenor is likewise denied.

May 16, 2013



Amy Ignatius, Vice Chair
Presiding officer