

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

**In the matter of the
Application for Certification
Pursuant to RSA 162-H of
ANTRIM WIND ENERGY, LLC**

Docket No. 2012-01

MOTION FOR REHEARING

Counsel for the Public, by his attorneys, the Office of the Attorney General, pursuant to RSA 541:3 hereby moves the Subcommittee to rehear or reconsider its Decision and Order Denying Application for Certificate of Site and Facility, dated April 25, 2013 (the “Decision”).

1. In the Decision the Subcommittee concluded that the Applicant demonstrated adequate technical and managerial capability.¹ It stated that there was sufficient evidence showing that the Applicant possessed technical and managerial capability.²

2. With respect to financial capability, the Subcommittee was perhaps more circumspect and said that it “did not make a final determination” on the issue and “ultimately, the Subcommittee voted to deny the Application on other grounds.”³

3. Good cause exists to rehear the case because:

(a) the Subcommittee should not have made findings and conclusions on technical and managerial capability as a prudential matter where the issue was mooted because of its denial of the application on other grounds;

¹ Decision, at 35.

² *Id.*

³ *Id.* at 39-40

(b) a finding of technical and managerial capability is not supported by the evidence in this case; and

(c) in determining technical and managerial capability the Subcommittee should have, but did not, consider the fact that the Applicant's agreement with the Town of Antrim was voided by order of the Hillsborough County Superior Court on May 20, 2013. This action affects the technical and managerial capability determination because key aspects of the project's construction and operation were addressed in that agreement. Without it, a number of safety, site security, and emergency response concerns are not addressed, road access and repair issues are unresolved, a number of construction period requirements are not addressed, there is no decommissioning plan, and the Town is no longer bound to support the project.

4. Were the Subcommittee to withdraw its findings of technical and managerial capability and enter instead, at best, a non-binding discussion of them as it did with respect to financial capability, Counsel for the Public would not be bound to cross-appeal on the issues concerning technical and managerial capability. The technical and managerial capability questions would then only be ripe for appeal on a subsequent final decision after remand, were such to occur.

WHEREFORE, Counsel for the Public respectfully requests that the Committee rehear its Decision with respect to technical and managerial capability, and grant such other and further relief as may be just.

Respectfully submitted,

COUNSEL FOR THE PUBLIC

By his attorneys

JOSEPH A. FOSTER
ATTORNEY GENERAL



Dated: May 28, 2013

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CERTIFICATE OF SERVICE

I, Peter C.L. Roth, do hereby certify that on May 28, 2013, I caused a true copy of the foregoing to be served upon the parties in this case on the official service list by electronic mail.

Dated: May 28, 2013

/s/ Peter C.L. Roth