

February 7, 2014

Chair Amy Ignatius  
N.H. Site Evaluation Committee  
c/o N.H. Dept. of Environmental Services  
P.O. Box 95  
29 Hazen Drive  
Concord, N.H. 03302-0095

**Re: SEC Docket No. 2013-02: Application of Atlantic Wind, LLC  
Society for the Protection of New Hampshire Forests**

Dear Chair Ignatius:

BCM Environmental & Land Law, PLLC, represents the Society for the Protection of New Hampshire Forests (the "Forest Society") in the above-captioned matter and writes to preserve rights of the Forest Society.

By way of background, on January 10, 2014, the Forest Society filed a Petition to Intervene and a Motion to Suspend Deliberations in this matter. By Order dated January 13, 2014, the Forest Society's Petition to Intervene is held in abeyance until a complete application is accepted and its Motion to Suspend was denied. On January 17, 2014, Atlantic Wind, LLC, filed an Objection to the Forest Society's Petition to Intervene. On January 23, 2014, the Applicant filed a letter informing the Site Evaluation Committee (the "Committee") that the Applicant would not be supplementing its Application within ten days of the January 13, 2014 Order. We understand that to mean that no application is now pending, and that if the Applicant wishes to pursue the project, a new application must be filed. Additionally, Docket 2013-02 may effectively be concluded.

Notwithstanding that this docket may be concluded, the Forest Society submits the following to preserve its rights.


First, this letter serves to inform the Committee that the Forest Society intends to file a response if, once a complete application is accepted, the Applicant objects to the Forest Society's Petition to Intervene. The Forest Society disagrees with many of the factual assertions and legal conclusions contained in the Applicant's Objection. But, because the docket is over and no right to appeal has accrued with respect to the issue of intervention, the Forest Society is not now filing such a response.

Second, please find enclosed the Forest Society's Motion for Rehearing with respect to the Order of January 13, 2014. That Order primarily determined the Application to be incomplete, but also denied the Forest Society's Motion to Suspend. The Forest Society seeks reconsideration only of the portion of the Order denying its Motion to Suspend. For relief, the



Forest Society requests that its Motion to Suspend be held in abeyance until a complete application is accepted and a subcommittee is designated.

Very Truly Yours,  
BCM Environmental & Land Law, PLLC

By:   
\_\_\_\_\_  
Jason D. Reimers

Cc:  
Clients  
Service List



STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

Docket No. 2013-02

Application of Atlantic Wind, LLC  
for a Certificate of Site and Facility for the Wild Meadows Wind Project

**PARTIALLY ASSENTED-TO MOTION FOR REHEARING  
OF THE SOCIETY FOR THE PROTECTION OF NEW HAMPSHIRE FORESTS**

The Society for the Protection of New Hampshire Forests (the “Forest Society”), by and through its attorneys, BCM Environmental & Land Law, PLLC, submits this Motion for Rehearing, pursuant to RSAs 162-H:11 and 541:3, following the New Hampshire Site Evaluation Committee’s (“Committee”) January 13, 2014 Order Determining Application to Be Incomplete (“Order”) and states as follows:

Background

1. On January 10, 2014, the Forest Society filed a Motion to Suspend Deliberations and Time Frame Pursuant to RSA 162-H:6-a, IX (“Motion to Suspend”), in which the Forest Society moved that it would be in the public interest for the subcommittee to temporarily suspend its consideration of the application (“Application”) of Atlantic Wind, LLC, for a certificate of site and facility for the Wild Meadows wind facility.
2. On January 13, 2014, the Committee issued its Order determining that the Application was incomplete.
3. In its Order, the Committee also denied the Forest Society’s Motion to Suspend.
4. With regard to Motions to Intervene filed by multiple interested parties, including the Forest Society, the Committee’s Order held them in abeyance, noting that considering such motions and other motion practice was premature. Order at 14-15, 17.

Review of January 13, 2014 Order

5. Pursuant to RSA 162-H:11, the Order is reviewable in accordance with RSA 541.
6. Pursuant to RSA 541:3, any person “directly affected” by the Order may, within 30 days, “apply for a rehearing in respect to any matter determined.” RSA 541:3.
7. The Forest Society is directly affected by the Order, as the Order denied the Forest Society’s Motion to Suspend, and the Forest Society has substantial interests in the vicinity of the proposed wind facility. The only matter in the Order with regard to which the Forest Society seeks rehearing is the denial of its Motion to Suspend.
8. The Committee “may grant such rehearing if in its opinion good reason for the rehearing is stated in the motion.” RSA 541:3.
9. Grounds for rehearing include that the Committee’s decision was unlawful or unreasonable. RSA 541:4.

Rehearing Should Be Granted Because Only a Subcommittee May Exercise or Decline to Exercise the Discretion to Suspend Deliberations and Expand Time Frames

10. Rehearing should be granted because it was unlawful for the Chair or the Committee to deny a motion requesting that the **subcommittee** exercise authority that only the subcommittee may exercise.
11. Whether to exercise the discretion under RSA 162-H:6-a, IX to suspend deliberations and enlarge the time frame is a decision for the subcommittee rather than the Chair: “If the **subcommittee** at any time during its deliberations relative to an application for a certificate deems it to be in the public interest, **it** may temporarily suspend its deliberations and enlarge the time frame established under this section to issue or deny a certificate.” RSA 162-H:6-a, IX (emphasis added).

12. As stated in the Order, RSA 162-H:6-a, II delegates completeness review to the Committee Chair or designee for applications for renewable energy facilities. Order at 14.

13. Additionally, it is the sole responsibility of the Chair or designee to “decide whether or not to accept the application.” RSA 162-H:6-a, III.

14. In the event that the application is accepted, “the chairperson shall designate a subcommittee as provided in RSA 162-H:4, IV.” Id. This provision suggests that a subcommittee is not designated unless and until a complete application is accepted.

15. On January 13, 2014, the Chair found the Application of Atlantic Wind to be incomplete, and thereby did not accept the Application for purposes of RSA 162-H:6-a, III. Order at 16-17.

16. As a complete application was not accepted, no subcommittee has been designated pursuant to RSA 162-H:6-a, III.

17. As the discretion to temporarily suspend deliberations and time frame rests only with the subcommittee rather than the Chair, and there having been no formation of a subcommittee because the Application was not accepted, it was unlawful and unreasonable for the Chair to dispositively rule on the Forest Society’s Motion to Suspend.

Holding the Motion to Suspend in Abeyance  
Would be Consistent with the January 13, 2014 Order

18. Rather than denying the Motion to Suspend, the Chair should hold the Motion to Suspend in abeyance until a completed application is accepted and a subcommittee is designated.

19. This would be consistent with the Committee’s decision to hold motions to intervene in abeyance until a completed application is accepted, and would be consistent with the Committee’s position that motion practice prior to the completeness determination need not be entertained. Order at 14-15, 17.

20. Further, the Committee has correctly pointed out that “all time frames pertaining to the issuance of a certificate of site and facility commence only upon the acceptance of an application is complete.” Order at 15 (citing RSA-H:6-a and 7). Thus, because such time frames have not yet commenced, it is unreasonable to issue a dispositive ruling on the Motion to Suspend these time frames.

21. The proper time to consider and rule upon the Motion to Suspend would be after a subcommittee has been formed and after time frames in RSA 162-H:6-a and 7 have commenced.

22. Finally, in denying the Motion to Suspend, the Committee erred by not giving full consideration to the public interest as set forth by the Forest Society in its Motion to Suspend.

23. For the foregoing reasons, the denial of the Forest Society’s Motion to Suspend was unlawful and unreasonable.

24. Counsel for Wild Meadows Legal Fund assents to the relief sought by this Motion; Counsel for Atlantic Wind does not assent; and Counsel for the Public takes no position.

**WHEREFORE**, the Forest Society respectfully requests that the Committee:

- A. Reconsider its denial of the Forest Society’s Motion to Suspend;
- B. Hold the Motion to Suspend in abeyance until such time as a subcommittee is formed pursuant to RSA 162-H:6-a, III so that the subcommittee may consider the Motion to Suspend; and
- C. Grant such further relief as it deems appropriate.

Respectfully Submitted,

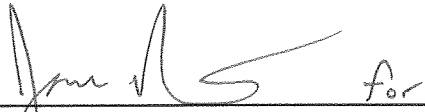
**SOCIETY FOR THE PROTECTION OF  
NEW HAMPSHIRE FORESTS**

By its Attorneys,

BCM Environmental & Land Law, PLLC

3 Maple Street  
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Date: 2/7/14

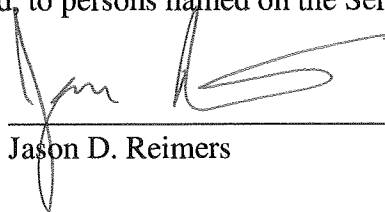
By:   
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Date: 2/7/14

By:   
Jason Reimers, Esq. (17309)  
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**CERTIFICATE OF SERVICE**

I hereby certify that on this day, February 7, 2014, a copy of the foregoing motion was sent by electronic mail or U.S. Mail, postage prepaid, to persons named on the Service List of this docket.

  
Jason D. Reimers