

March 20, 2015

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BY ELECTRONIC MAIL ([bhcummings1@gmail.com](mailto:bhcummings1@gmail.com))

New Hampshire Site Evaluation Committee c/o David K. Wiesner, Staff Attorney  
N.H. Public Utilities Commission  
21 South Fruit St.  
Concord, NH 03301

Re. New Hampshire Site Evaluation Committee Rule Making, Docket NO. 2014-04

Dear Mr. Wiesner;

The purpose of this letter is to discuss so called "Good Neighbor Agreements" and request that they be specifically prohibited in the New Hampshire Code of Administrative Rules. These agreements have become an increasing common practice between energy producers and "difficult" neighbors. Their primary purpose serves as a silencing tactic to "buy off" adjacent neighboring stakeholders in order to further the ambitions of the energy producers. These waivers of individual rights and practices should be banned completely in the future, by inclusion of language in the NH Code of Administrative Rules prohibiting their use.

These agreements are clearly not in the public interest. By way of examples:

- Glenmore (Brown County), Wisconsin where Duke Energy's Shirley Wind Farm signed many Good Neighbor Agreements with surrounding landowners. When the residents began to have health problems such as ear pain, ear pressure, headaches, nausea and sleep deprivation these agreements prevented those affected from having any outlet to resolve their issues. In October 2014 the Brown County Board of Health declared the Shirley Wind Farm a "human health hazard". The situation is still not resolved.
- The fiasco that occurred in 2014 with the Granite Reliable Wind Project where the impacted owners had signed a Good Neighbor Agreement and yet the NH Governor signed a law requiring PILOT taxes not knowing these property owners had already signed off on their rights by accepting a cash settlement protecting them from tax increases prior to the project application. The agreement called for "the strictest confidence". The mess left a multitude of hard feelings and consequences for the state and local governments. It got so out-of-hand the Coos County Delegation Chairman publicly accused the landowners of being "bold enough to lie to our faces".
- Additionally, it appears that the energy developments in question typically take place in rural environments where the local citizens may be of limited financial means. These agreements may take advantage of local residents by offering what may be perceived as large monetary amounts by the recipient but a mere pittance to the developer. By throwing around money to appease "the folks" the developer can save big money by avoiding true corrective measures thus working around the NH Code of Administrative Rules.

Clearly, the general public, municipal governing bodies and the SEC need to be aware of any such agreement or ideally, the SEC should ban them altogether.

### **Definition**

*"Good Neighbor Agreements" - (Also referred to as "Impact Easement") Defined as any agreement(s) between adjacent landowners and wind turbine developers invoking incentives to silence complaints regarding items such as but not limited to: noise, low-frequency vibrations, visual clutter, shadow flicker, nighttime red strobing lights, TV interference, property devaluation, tax impact. Note: this definition to be added as new Section 102.47.*

Energy Developers compensate "Good Neighbor" landowners to relinquish their rights in the following areas:

- ability to sue the energy developers over any past, present, or future claims, demands, obligations, or actions.
- ability to sue over any compensatory or punitive damages (both anticipated and unanticipated)
- do anything on their property that might interfere with the construction, installation, maintenance, or operation of the energy project.
- share any financial information about the agreement, except with a legal or financial advisor.
- binds the agreement to successor owners of the property likely resulting in devaluation in property value.
- often requires confidentiality on the part of the signers

### **Language to Accomplish**

The signing away of one's rights is a significant decision. Laws are put into place for good reason and the act of a corporation buying away these rights is counter to their purposes. Putting people in the position of having no solution or alternatives when wind turbine developers violate rules or interfere with individual property/health is wrong. I strongly recommend such agreements be specifically BARRED in the NH Code of Administrative Rules through inclusion of the following language.

Site 301.17

*"Under no circumstance will an energy developer provide compensation of any sort to any adjacent landowner(s) which provides for said landowner(s) to relinquish rights to pursue legal action against the developer for any perceived injustice affecting the landowner".*

### **Language Alternative**

If the Committee thinks otherwise, then as an alternative, I recommend the following language in the NH Code of Administrative Rules. (Note that in employment law the government has put into place very specific actions that must be followed regarding the signing away of one's rights in the case of relinquishing age discrimination protection. The same should be true in this situation.)

*a) Adjacent landowners who are requested to sign such an agreement must receive a 21-day signing decision period followed by a 7-day change of mind period during which time the landowner may fully rescind the agreement.*

*b) The agreement must encourage the landowner in writing to seek legal assistance prior to signing any such agreement.*

*c) In no case is an agreement to be established which violates in any manner the requirements of the New Hampshire Code of Administrative Rules.*

*d) Agreement full details (including minimally property owners name, address, tax map parcel, type of complaints silenced) must be announced on the SEC Website for a period of 30 days within 15 days of signing.*

I encourage the adoption of this rule. The general public, the municipal governing bodies and the SEC need not only to be aware of these agreements but exercise control over their use and impact.

Thank you for the opportunity to comment on the Rules process. Please feel free to call me at the number below with any questions the Committee may have.

Sincerely,

s/

Bruce Cummings  
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