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July 23, 2015

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N.H. Public Utilities Commission  
21 South Fruit Street, Suite 10  
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Subject: New Hampshire Site Evaluation Committee Rulemaking, Docket No. 2014-04

Mr. Wiesner:

Thank you for facilitating the June 29, 2015, Stakeholder Technical Session that helped participants achieve consensus on the three wind energy facility sound standards siting criteria. RENEW Northeast, Inc., (“RENEW”)<sup>1</sup> submits this letter to supplement its verbal comments on the Site Evaluation Committee’s (“SEC”) Initial Proposal of rules for wind energy facility shadow flicker limits and safety setback requirements that were delivered at the session.

Some of the stakeholder proposals on shadow flicker and ice throw presented at the session if adopted would place unnecessary restrictions on wind energy facility development. The goal of this rulemaking should be to establish fair criteria and a comprehensive process for the analysis of energy facilities. It should ensure that the final rules provide standards for wind projects that are achievable in the real world and do not impose undue or disproportionate burdens on wind development in New Hampshire.

On shadow flicker, some proposals discussed at the session called for limits of zero to ten hours per year that were based on rules in Mason County, Michigan. RENEW urges the SEC to

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<sup>1</sup> The comments expressed herein represent the views of RENEW and not necessarily those of any particular member of RENEW.

reject these proposals in favor of maintaining the rules on shadow flicker as contained in the Initial Proposal. The rules in the Initial Proposal appropriately follow the National Association of Regulatory Utility Commissioners (“NARUC”) guidelines and are reflective of typical shadow flicker rules across jurisdictions in the United States.<sup>2</sup> The 30 hours per year limit recommendation in those guidelines ensures residences are free of shadow flicker for 99.7 percent of the year.<sup>3</sup> By contrast, draconian rules in one county out of more than 3,000 counties in the United States should not be held up in New Hampshire as the benchmark.

RENEW also supports the Initial Proposal’s rule for Setback Standards. During the technical session, discussions focused on whether longer setback distances should be imposed to address ice throw. In determining whether ice throw from a proposed wind energy facility will have an adverse effect on public safety, proposed rule Site 301.14(f) requires the SEC to consider, in addition to the general setback standards contained in Site 301.14(2)(c), the assessment report on ice throw risks that must be submitted with an application pursuant to Site 301.08(a)(4)). Rather than regulate ice throw using arbitrary setback distances that could be overbroad and a burden on developers, the SEC will have the authority under proposed rule Site 301.14(f) to deny a permit unless risks identified in the assessment report are addressed by the applicant. This approach follows the NARUC report recommendation that regulators should “not regulate setback distance; regulate ice throw” and “authorize demonstrated ice control measures”.<sup>4</sup> The proposed safety setbacks are appropriate for ice throw by giving the SEC the information and authority to ensure safety while avoiding setting requirements that exceed the risk and manufacturer requirements.

While RENEW is pleased stakeholders could reach consensus on the three sound standards criteria that were on the agenda, RENEW urges the SEC to reconsider the Initial Proposal’s daytime and nighttime noise limits of 45 dBA and 40 dBA, respectively, and substitute in place therein the limits set in the permits for existing New Hampshire projects of 55 dBA daytime and 45 dBA nighttime. The lack of noise complaints from two New Hampshire projects operating within these limits- Lempster and Groton- should give the SEC confidence that these higher limits will protect neighbors against serious annoyance from future projects. The World Health Organization (“WHO”) has also recommended these limits for protecting people in their residences. According to the WHO, daytime outdoor living area sound levels at a residence should not exceed 55 dBA Leq to prevent “serious annoyance” while nighttime sound levels at the outside facades of the living spaces should not exceed 45 dBA Leq so that “people may sleep

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<sup>2</sup> National Association of Regulatory Utility Commissioners, *Wind Energy & Wind-Park Siting and Zoning Best Practices and Guidance for States* 31 (September, 2012).

<sup>3</sup> *Id.* at 27.

<sup>4</sup> *Id.*

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with bedroom windows open.”<sup>5</sup> These WHO guidelines have proven effective in New Hampshire and should remain the standard.

RENEW would appreciate posting of this letter on the SEC’s Docket No. 2014-04 webpage as late-filed comments.

Respectfully submitted,



Francis Pullaro  
Executive Director

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<sup>5</sup> World Health Organization, *Guidelines for Community Noise* 4.3.1 (1999). See Decision Issuing Certificate of Site and Facility with Conditions, NHSEC Docket 2006-01, *Re: Application of Lempster Wind, LLC*, at 46 (June 28, 2007) (finding Section 4.3.1 of the WHO Guidelines “instructive”).