

NEW HAMPSHIRE
SUSTAINABLE ENERGY
ASSOCIATION

Martin P. Honigberg, Chairman
New Hampshire Public Utilities Commission
12 South Fruit Street, Suite 10
Concord, NH 03301

Re: Petition for Jurisdiction on Antrim Wind Energy, LLC, Docket 2014-05

July 1, 2015

Dear Chairman Honigberg:

I am writing to you on behalf of the New Hampshire Sustainable Energy Association (NHSEA) and our business and policy arm, the New Hampshire CleanTech Council, regarding the Antrim Wind Energy, LLC (AWE) petition for jurisdiction, docket number 2014-05.

NHSEA and its CleanTech Council is the largest organization of supporters dedicated to the advancement of renewable energy and energy efficiency in New Hampshire. As a non-profit, we promote practices and policies that contribute to greater amounts of renewable energy, efficiency, and conservation - all of which serve to improve our economy and our environment.

It is appropriate for and incumbent upon the Site Evaluation Committee (SEC) to take jurisdiction in this case for three reasons: the statutory intent of RSA 162-H, the lack of local zoning ordinances for energy facilities of significant magnitude, and for policy and regulatory consistency and stability.

The SEC was plainly established through RSA 162-H because “it is in the public interest to maintain a balance among...potential significant impacts and benefits in decisions about the siting, construction, and operation of energy facilities in New Hampshire.” RSA 162-H also requires “that the state ensure that the construction and operation of energy facilities is treated as a significant aspect of land-use planning in which all environmental, economic, and technical issues are resolved in an integrated fashion.” The AWE project is a proposed energy facility that raises significant debate on each of these issues – to balance these issues and to resolve them in an integrated fashion will require the depth and breadth of expertise that only a diverse and resourceful state entity such as the SEC can provide. Not taking jurisdiction would be an abdication of the statutorily defined SEC duties, and would push significant costs and undue burden onto a local community. The SEC can provide consistency, clarity and transparency to developers, communities, and citizens in ways that local planning boards and individual communities, by definition, cannot.

In cases such as this, where there is no ordinance to govern the development sought, then, by law, the town cannot readily approve nor reject a project without an onerous variance process. Antrim’s planning board has stated that Antrim has no such ordinance, therefore the town cannot be guided by existing zoning and take clear jurisdiction over AWE. Additionally, there is precedent from NH Supreme Court rulings on “implied state preemption” that could apply to

the AWE project, as has been the case in past facility siting rulings made by the court (*Stablex v. Hooksett*, 122 N.H. 1091(1982)).

New Hampshire policies regarding renewable energy also support the SEC taking jurisdiction in this case. In addition to RSA 162-H, there is RSA 362-F, RSA 378:37-40, and RSA 674. Abiding by these existing policies creates stability that is critical for all current and future proposed projects – the application of these policies needs to be consistent, clear, and transparent. These policies would all support the SEC’s finding of jurisdiction because eligible renewable energy projects, including AWE, enable the state to meet the goals and purposes therein. Furthermore, there is nexus between state and local obligations created by these policies’ goals and purposes that the SEC can balance in a comprehensive manner that a local entity may be unable to do.

In SEC deliberations on AWE’s motion to reconsider the proposed project, committee members indicated on record (Docket 2012-01) that a new application would better suit the proposed changes that AWE offered, given the significance of the changes. These changes to the project have now been made and a modified project was proposed this year by AWE. Reneging on previous recommendations could harm SEC credibility and have a chilling effect on the market for all types of future energy facility projects in NH.

For each of these reasons, we urge the SEC to take jurisdiction over the AWE project. The implications of the SEC’s decision in this matter stretch well beyond wind project prospects: the decision will color all future energy projects in NH.

Thank you for the opportunity to comment in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate Epsen', with a long horizontal flourish extending to the right.

Kate Epsen

Executive Director

NH Sustainable Energy Association