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July 23, 2015

**Via Hand Delivery**

Jane Murray  
Site Evaluation Committee  
N.H. Department of Environmental Services  
29 Hazen Drive  
Concord, NH 03302-0095

**Re: Docket No. 2014-05: Antrim Wind Energy, LLC Petition for Jurisdiction  
Over a Renewable Energy Facility**

Dear Sir or Madam:

In connection with the above-referenced docket I enclose an original and eighteen (18) copies of Antrim Wind Energy, LLC's Objection to Counsel for the Public's Motion for Leave to File a Limited Response.

If you have any questions regarding these materials, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick H. Taylor".

Patrick H. Taylor

Enclosures

STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE

PETITION FOR JURISDICTION OVER A RENEWABLE FACILITY  
BY ANTRIM WIND ENERGY LLC

SEC DOCKET NO. 2014-05

**OBJECTION TO COUNSEL FOR THE PUBLIC'S  
MOTION FOR LEAVE TO FILE A LIMITED RESPONSE**

Antrim Wind Energy, LLC ("AWE") respectfully submits this Objection to Counsel for the Public's Motion for Leave to File a Limited Response. In support hereof, AWE states as follows:

1. The very premise of Counsel for the Public's motion - that it "previously had no chance to comment" on issues raised in the post-trial memoranda of AWE and the Town of Antrim - is simply not correct. There is nothing addressed in the "response" attached to the motion that could not have been raised in a timely post-hearing memorandum filed on or before July 17, the deadline set by the Committee and observed by the other parties to the docket. Neither AWE nor the Town introduced any "new legal argument" (Tr. Day 2 121:8-11) in their memoranda that was not otherwise presented at or prior to the hearing in this docket. Rather, Counsel for the Public seeks to gain an advantage not available to the other parties by waiting until after the post-hearing memoranda of the other parties had been submitted and selectively critiquing points made in the AWE and Antrim memoranda mere days before deliberations. Counsel for the Public's "response" is untimely, unfair, and prejudicial and should not be permitted.

2. Counsel for the Public already submitted a nearly 20-page memorandum, and claims that it did so prior to the close of the second day of hearings so the Committee would have it during deliberations.<sup>1</sup> Counsel for the Public's Motion ¶ 2. No memorandum of law was required or

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<sup>1</sup> Counsel for the Public's Memorandum of Law was circulated to the parties at approximately 2:30 p.m. on July 7.

even contemplated in this docket's procedural order or notice of adjudicative hearing. Having made that decision, Counsel for the Public cannot now complain that it was unable to incorporate references to the second day of hearings into its memorandum.

3. Moreover, Counsel for the Public was not prejudiced as a result of its decision to submit a memorandum of law prior to the close of the hearings. All parties to this docket were given ten days from the close of the hearings to prepare and submit post-trial memoranda addressing "issues that [the parties] think are important or summations of what [the parties] think the issues are." Tr. Day 2 121:24 – 122:3. The Committee specifically indicated that there would be "one deadline" for the parties to make their points. Id. 121:10-11. Thus, Counsel for the Public had ten days to supplement its initial Memorandum of Law to address matters raised on the second day of hearings, including those discussed in Counsel for the Public's proposed "response," but elected not to do so.

4. The points raised in Counsel for the Public's proposed response, though presented as reactions to the post-hearing memoranda of AWE and Antrim, could have and should have been presented in a timely filed memorandum of law. For example, Counsel for the Public devotes much of the response to critiquing an exhibit utilized by AWE during the cross of Counsel for the Public's expert witness, Jean Vissering. Counsel for the Public had ample time and opportunity following the hearing to set forth its criticisms in a memorandum submitted by July 17, but either failed or chose not to do so. Similarly, Counsel for the Public offers "responses" to various issues addressed during the direct and cross examination of witnesses or concluding statements of Antrim and AWE, or otherwise introduced in prior pleadings or prior dockets. There is nothing raised for the first time in the AWE or Antrim memoranda that would merit a deviation from the post-hearing schedule established by the Committee.

5. Counsel for the Public should not be permitted to play by a different set of rules. To the extent that the other parties to the Docket wanted to submit post-hearing memoranda, they did so. Nothing precluded Counsel for the Public from submitting a supplemental memorandum on or before the same July 17 deadline observed by all of the other parties. The parties who did submit timely memoranda did so without the advantage of seeing and responding to issues raised in other memoranda. Such is the nature of a universal deadline to which all participants must adhere. For example, while AWE may wish to respond to points raised in Wind Action's memorandum, and *vice versa*, it would be improper for them to attempt to do so. If each party to the docket attempted to respond to every other party's memorandum, the result would be unnecessary disorder and posturing on the eve of deliberations.

6. Counsel for the Public had the same opportunity to file a post-hearing memorandum supplementing its earlier memorandum of law summarizing its arguments and identifying issues that it believed to be important that all other parties had. It decided not to take advantage of that opportunity. Counsel for the Public should not now be permitted to come in at the last minute and selectively respond to the AWE and Antrim memoranda. Such a result would be unfair and prejudicial to AWE and Antrim, and inconsistent with the schedule established by the Committee.

WHEREFORE AWE respectfully requests that the Committee:

- A. Deny Counsel for the Public's Motion for Leave to File a Limited Response;
- B. Grant AWE's petition for jurisdiction; and
- C. Grant such other relief as justice may require.


Respectfully submitted,

Antrim Wind Energy, LLC

By its attorneys,

McLANE, GRAF, RAULERSON & MIDDLETON  
PROFESSIONAL ASSOCIATION

Dated: July 23, 2015 By: \_\_\_\_\_

  
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**Certificate of Service**

I hereby certify that on this 23<sup>rd</sup> day of July, 2015, I served the foregoing Memorandum by electronic mail to the service list in this docket.

  
\_\_\_\_\_  
Patrick H. Taylor, Esq.