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January 25, 2016

VIA Electronic Mail & Hand Delivery

Pamela Monroe
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord N.H. 03301-2429

**Re: NH Site Evaluation Committee Docket No. 2015-02:
Application of Antrim Wind Energy, LLC for a Certificate of Site and Facility for
Construction of a Wind Project in Antrim New Hampshire**

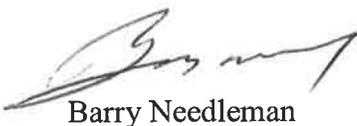
Dear Ms. Monroe:

Please find enclosed for filing in the above-captioned matter originals and eighteen (18) copies of each of the following documents: the Applicant's Objection to Stoddard Conservation Commission's Petition to Intervene; the Applicant's Objection to Richard Hendl, Joseph D'Aleo, Robert Copeland, and Bruce Schwoegler's Petition to Intervene; and the Applicant's Response to Certain Petitions for Intervention.

We have provided members of the service list with electronic copies of the documents identified above, pending addition of the documents to the Committee's website.

Please feel free to contact me with any questions regarding these materials.

Very truly yours,



Barry Needleman

BN:rs3
Enclosures

THE STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

Docket No. 2015-02

**APPLICATION OF ANTRIM WIND ENERGY, LLC
FOR A CERTIFICATE OF SITE AND FACILITY**

**APPLICANT'S OBJECTION TO RICHARD HENDL, JOSEPH D'ALEO, ROBERT
COPELAND, AND BRUCE SCHWOEGLER'S PETITION TO INTERVENE**

NOW COMES Antrim Wind Energy, LLC ("AWE" or the "Applicant") by and through its attorneys, McLane Middleton, Professional Association, and respectfully submits this Objection to Richard Hendl, Joseph D'Aleo, Robert Copeland, and Bruce Schwoegler's (collectively referred to as the "meteorological group") Petition to Intervene in the above-captioned proceeding. In support of this Objection the Applicant states the following:

I. Introduction

1. On October 2, 2015, the Applicant filed an application with the New Hampshire Site Evaluation Committee ("SEC" or the "Committee") for a Certificate of Site and Facility to construct and operate a 28.8 MW electric generation facility consisting of nine Siemens SWT-3.2-113 direct drive wind turbines in Antrim, New Hampshire (the "Project"). The Committee accepted the application on December 1, 2015.

2. On January 12, 2016, the meteorological group submitted a letter to the SEC Administrator requesting intervenor status in the proceedings. On January 13, 2016, the meteorological group filed a supplement to their request for intervenor status.

3. None of the individuals included in the meteorological group live in Antrim or anywhere near the proposed Project. None of these individuals have demonstrated a specific right, duty, privilege, immunity or interest that would entitle them to participate either

individually or as a group in the proceeding. Based on their failure to meet the statutory threshold required for intervenor status, the Petition should be denied.

II. Standard for Intervention

4. Pursuant to RSA 541-A:32, I and Site 202.11, in order to intervene in an SEC proceeding: (1) the petitioner must properly file a petition; (2) the petitioner must establish that their rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and (3) that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention. RSA 541-A:32, I; N.H. Code Admin R., Site 202.11(b).

III. The Meteorological Group Does Not Have a Substantial Interest Which May be Affected by this Proceeding.

5. The meteorological group must set forth enough facts to demonstrate that these individuals have a legal right to intervene. See RSA 541-A:32, I(b); *Appeal of Stonyfield*, 159 N.H. 227, 231 (2009) (stating that “a party must demonstrate that his rights may be directly affected by the decision, or in other words, that he has suffered or will suffer an injury in fact”) (internal quotations omitted). General allegations of harm that are consistent with a broad public interest are not sufficient. See *Blanchard v. Boston & Maine Railroad*, 86 N.H. 263, 264 (1933) (finding that standing does not exist if a party cannot establish that it has an “interest[] in or [is] affected by the proceedings in some manner differently from the public, citizens, and taxpayers generally”).

A. The Meteorological Group Has Not Alleged Sufficient Facts to Establish a Particularized Injury for the Committee to Grant the Meteorological Group’s Petition to Intervene.

6. The meteorological group has not asserted any particularized right, duty, privilege, immunity or interest that would be sufficient to demonstrate that they should be

granted intervenor status. None of these individuals live in or near Antrim. Similarly, none of these individuals indicated that they own any property in or around the Project area. Nor do they suggest they utilize resources in this area or even visit the area in which the proposed Project would be located.

7. In a supplement filed on January, 13, 2016, the meteorological group indicated that it has “very different interests in this proceeding from the other parties in the case, in that the data and models presented by the appellant will require careful analysis, study and evaluation, by trained meteorologists.” This is a mischaracterization of the language contained in RSA 541-A:32. The type of interest being described by the meteorological group is an interest in reviewing and analyzing the application. It is not referring to an interest or right that may be affected by the proceeding, such as a property right or personal use interest, which is the intent of the statute.

8. Nothing prohibits this group from offering public comment pertaining to the aspects of the application that interest them. But there is nothing whatsoever about the Petition that even comes remotely close to satisfying the statutory requirements to merit intervenor status.

9. Further, the meteorological group has not and cannot allege any specific injury that any individual member of the group has suffered or will suffer that would provide a basis for standing. *Id.*; *Appeal of Richards*, 134 N.H. 148, 156 (1991) (where a party is unable to demonstrate an actual or immediate injury, there is no standing). Their failure to demonstrate any connection to the Project area makes them incapable of demonstrating specific injury or any right that might be affected.

B. The Meteorological Group's Interests Are Sufficiently Represented by Counsel for the Public and the Interests of Justice and the Orderly Conduct of the Proceeding Would Be Disserved by Granting the Meteorological Group's Petition.

10. The only conceivable interest the meteorological group may have in this proceeding is very vague in nature and certainly no different from the interests of the public in general. Standing does not exist if a party alleges "nothing distinguishing [its] right and interest from that of other citizens and taxpayers." *Blanchard*, 86 N.H. at 264.

11. The SEC held in the prior Antrim Wind Docket that a certain property owner in a neighboring town should not be granted intervenor status because their interest was no "different from the interest of the public at large or the interest that may be represented by Counsel for the Public." *Order on Pending Motions, Re: Application of Antrim Wind, LLC*, Docket No. 2014-05, p. 16 (March 13, 2015). The alleged interest of the meteorological group is even more remote and tenuous than the interests alleged by that petitioner in the prior proceeding.

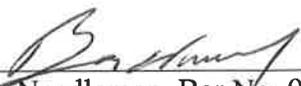
IV. Alternatively, if the SEC Grant's the Petition for Intervention, it Should Limit Participation Pursuant to RSA 541-A:32,III and Site 202.11(d)

12. To the extent that the Committee finds any basis to grant the meteorological group's Petition, the Applicant requests that they be grouped together with all other non-abutting property owners in order to ensure the orderly and timely review of the application. In addition, the Applicant requests that the Committee ensure the meteorological group's compliance with the limitations applicable to all other parties grouped as non-abutting property owners as described in *Antrim Wind Energy, LLC's Response to Certain Petitions to Intervene* filed simultaneously with this Objection.

Respectfully submitted,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

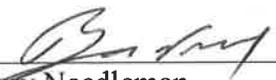
Dated: January 25, 2016

By: 

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Certificate of Service

I hereby certify that on the 25th of January 2016, an original and one copy of the foregoing Objection was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the service list.



Barry Needleman

THE STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

Docket No. 2015-02

**APPLICATION OF ANTRIM WIND ENERGY, LLC
FOR A CERTIFICATE OF SITE AND FACILITY**

**APPLICANT'S OBJECTION TO STODDARD CONSERVATION COMMISSION'S
PETITION TO INTERVENE**

NOW COMES Antrim Wind Energy, LLC ("AWE" or the "Applicant") by and through its attorneys, McLane Middleton, Professional Association, and respectfully submits this Objection to Stoddard Conservation Commission's Petition to Intervene in the above-captioned proceeding. In support of this Objection the Applicant states the following:

I. Introduction

1. On October 2, 2015, the Applicant filed an application with the New Hampshire Site Evaluation Committee ("SEC" or the "Committee") for a Certificate of Site and Facility to construct and operate a 28.8 MW electric generation facility consisting of nine Siemens SWT-3.2-113 direct drive wind turbines in Antrim, New Hampshire (the "Project"). The Committee accepted the application on December 1, 2015.

2. On January 13, 2016, the Stoddard Conservation Commission (the "Commission") submitted a Petition to the SEC Administrator requesting intervenor status in the proceedings.

3. The Commission has failed to articulate a particular right, duty, privilege, immunity or interest that may be affected by the proceedings. RSA 541-A:32, I. The purpose and activities of the Commission within the town of Stoddard do not correlate with any right or interest that may be affected by this Application and therefore the Petition should be denied.

II. Standard for Intervention

4. Pursuant to RSA 541-A:32, I and Site 202.11, in order to intervene in an SEC proceeding: (1) the petitioner must properly file a petition; (2) the petitioner must establish that their rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and (3) that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention. RSA 541-A:32, I; N.H. Code Admin R., Site 202.11(b).

III. The Commission Does Not Have a Substantial Interest Which May be Affected by this Proceeding

5. As authorized pursuant to RSA 36-A:2, the Stoddard Conservation Commission was established to protect the natural resources and watershed within the town of Stoddard. It is not clear from its Petition what particularized interest the Stoddard Conservation Commission may have that would be impacted by this proceeding. Further, any potential interests identified in the Petition are in no way distinguishable from the interests of the general public.

A. The Stoddard Conservation Commission Has Not Alleged Sufficient Facts to Establish a Particularized Interest That Entitles it to Intervenor Status.

6. The Commission must set forth enough facts to demonstrate that it has a legal right to intervene. See RSA 541-A:32, I(b); *Appeal of Stonyfield*, 159 N.H. 227, 231 (2009) (stating that “a party must demonstrate this his rights may be directly affected by the decision, or in other words, that he has suffered or will suffer an injury in fact”) (internal quotations omitted). General allegations of harm are not sufficient. See *Blanchard v. Boston & Maine Railroad*, 86 N.H. 263, 264 (1933) (finding that standing does not exist if a party cannot establish that it has an “interest[] in or [is] affected by the proceedings in some manner differently from the public, citizens, and taxpayers generally”). While the Applicant acknowledges that the Commission was

previously permitted to intervene in the prior Antrim Wind Docket, this decision in and of itself does not warrant the Commission's participation in the review of this new application.

7. The Commission has not and cannot allege any specific injury that it has suffered or will suffer that would provide a basis for standing. *Id.*; *Appeal of Richards*, 134 N.H. 148, 156 (1991) (where a party is unable to demonstrate an actual or immediate injury, there is no standing). The Commission does not have statutory authority over any resources within the Project area or in close proximity to the Project area. Therefore, any generalized concerns it may have are indistinguishable from the interests of the broad general public.

8. A conservation commission may be established by statute "for the proper utilization and protection of the natural resources and for the protection of watershed resources of said city or town." RSA 36-A:2 (emphasis added.)

9. According to the application, the wetland impacts associated with Project construction total .21 acres within the town of Antrim. There are no impacts associated with wetlands or natural resources within the town of Stoddard. Therefore, no interests of the Conservation Commission will be affected by this proceeding.

10. While the Petition broadly discusses ecological and habitat values on conservation lands within the town of Antrim, it is not clear what right or interest the Commission has in these lands and resources that is distinguishable from the interests of the general public. The Commission has failed to demonstrate how the Project will directly or indirectly affect wetlands or natural resources in Stoddard.

11. The Commission notes that Stoddard's conservation land "abut the northwestern bound of Antrim." However, it does not assert that any of the natural resources or wetland areas in Stoddard directly abut the Project area, or will be affected in any way by the Project. The

Project is not going to be constructed in Stoddard and will not be located on or adjacent to the Stoddard conservation lands. There is no apparent correlation between the Commission's interest in protecting these lands within Stoddard and the effects of the Project.

B. The Stoddard Conservation Commission's Interests Are Sufficiently Represented by Counsel for the Public and the Interests of Justice and the Orderly Conduct of the Proceeding Would Be Disserved by Granting the Commission's Petition.

12. Standing does not exist if a party alleges "nothing distinguishing [its] right and interest from that of other citizens and taxpayers." *Blanchard*, 86 N.H. at 264. The SEC held in the prior Antrim Wind Docket that a certain property owner should not be granted intervenor status because their interest was no "different from the interest of the public at large or the interest that may be represented by Counsel for the Public." *Order on Pending Motions, Re: Application of Antrim Wind, LLC*, SEC Docket No. 2014-05, p. 16 (March 13, 2015).

13. Concerns raised by the Commission such as those regarding Pitcher Mountain and the Tuttle Hill ridgeline are indistinguishable from broad public concerns. In addition, these types of concerns are required to be reviewed by the Committee and will be addressed by Counsel for the Public in reviewing the potential aesthetic effects. Therefore, the generalized interests alleged by the Commission are insufficient to provide a basis to grant the Petition for Intervention.

IV. Alternatively, if the SEC Grant's the Petition for Intervention, it Should Limit the Commission's Participation Pursuant to RSA 541-A:32, III and Site 202.11(d)

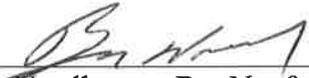
14. To the extent that the Committee finds any basis to grant the Stoddard Conservation Commission intervenor status, the Commission should be grouped with other non-abutting property owners in order to ensure the orderly and timely review of this application. The only conceivable interests of the Commission that are distinct from the interests of the

general public are in line with the interests of other non-abutting property owners. In addition, the Applicant requests that the Committee ensure the Commission's compliance with the limitations applicable to all other parties grouped as non-abutting property owners as described in *Antrim Wind Energy, LLC's Response to Certain Petitions to Intervene*, filed simultaneously with this Objection.

Respectfully submitted,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: January 25, 2016

By: 

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Certificate of Service

I hereby certify that on the 25th of January 2016, an original and one copy of the foregoing Objection was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the service list.



Barry Needleman

THE STATE OF NEW HAMPSHIRE

SITE EVALUATION COMMITTEE

Docket No. 2015-02

**APPLICATION OF ANTRIM WIND ENERGY, LLC
FOR A CERTIFICATE OF SITE AND FACILITY**

APPLICANT'S RESPONSE TO CERTAIN PETITIONS FOR INTERVENTION

NOW COMES Antrim Wind Energy, LLC ("AWE" or the "Applicant") by and through its attorneys, McLane Middleton, Professional Association, and respectfully submits this Response to Certain Petitions to Intervene in the above-captioned proceeding. In connection with this response the Applicant states the following:

I. Introduction

1. On October 2, 2015, the Applicant filed an application with the New Hampshire Site Evaluation Committee ("SEC" or the "Committee") for a Certificate of Site and Facility to construct and operate a 28.8 MW electric generation facility consisting of nine Siemens SWT-3.2-113 direct drive wind turbines in Antrim, New Hampshire (the "Project"). The Committee accepted the application on December 1, 2015.

2. The following individuals and organization filed Petitions to Intervene in the above-captioned proceeding within the period proscribed by the Committee in the Procedural Order issued on December 10, 2015:

- a) Audubon Society of New Hampshire
- b) Antrim Board of Selectmen
- c) Harris Center for Conservation
- d) The Windaction Group
- e) Mary Allen

- f) Charles Levesque
- g) Katharine Sullivan
- h) Rosamund Iselin
- i) Ken Henninger and Jill Fish
- j) Richard and Lorraine Block
- k) Annie Law and Robert Cleland
- l) Elsa Voelcker
- m) Janice Duley Longgood
- n) Clark Craig Jr.
- o) Brenda, Mark, and Nathan Schaefer
- p) Bruce and Barbara Berwick
- q) Stephen Berwick
- r) Mary Sherbourne
- s) Fred Ward

3. Based on the prior Antrim Wind Docket and the findings of the Committee in that proceeding, the Applicant does not object to the Petitions to Intervene listed above. However, the Applicant is requesting that certain individuals and organizations be grouped in order to ensure orderly and timely review of the application and to best serve the interests of justice.

II. Proposed Case Management Measures

A. Separate Intervenors

4. The Applicant believes that Audubon Society of New Hampshire, the Antrim Board of Selectmen, and the Harris Center for Conservation should be permitted to proceed as individual parties and not be grouped with any other intervenors. Each of these organizations

have identified interests that are unique and distinct from other individuals and groups requesting intervenor status, and these entities have direct interests in close proximity to the proposed Project.

B. Non-abutting Property Owners

5. The Applicant requests that the following individuals and organization be grouped together as non-abutting property owners: Mary Allen, Charles Levesque, Katharine Sullivan, Rosamund Iselin, Ken Henninger, Jill Fish, Richard and Lorraine Block, Annie Law, Robert Cleland, Elsa Voelcker, Mary Sherbourne, Fred Ward, and the Windaction Group.

6. Individuals who reside within the host community but do not abut the proposed Project area have been routinely grouped by the Committee. See *Report of Prehearing Conference and Technical Session and Procedural Order, Re: Application of Groton Wind, LLC*, SEC Docket No. 2010-01 (June 25, 2010); See also *Order on Motions to Intervene, Re: Application of Antrim Wind Energy, LLC*, SEC Docket No. 2012-01 (May 18, 2012) (allowing motion to intervene while consolidating abutting landowners into two groups).

7. Many of these individuals were included in the non-abutting landowner groups in the prior Antrim Wind Docket. The Applicant requests the same treatment of similarly situated individuals in this proceeding.

8. Mary Allen and Charles Levesque have requested that they be grouped separately in this proceeding. However, the rationale for their separate grouping from other non-abutting property owners does not reflect any unique or distinct interests that differ from the interests expressed by other non-abutting property owners. While Ms. Allen and Mr. Levesque both have been involved with local municipal bodies, their rights, duties, privileges, immunities and/or substantial interests are no different than any other non-abutting property owner within the town

of Antrim. Whatever experience and knowledge they may possess does not create an interest that is distinct from other non-abutting property owners.

9. In past proceedings, the Committee determined that the Windaction Group had not demonstrated any interest that requires it to be granted intervenor status. See e.g. *Order Granting Petitions to Intervene and Revising Procedural Schedule*, SEC Docket No. 2008-04, p. 5-6 (Oct. 14, 2008). See also *Order on Motions to Intervene, Re: Application of Antrim Wind Energy, LLC*, SEC Docket No. 2012-01 (May 18, 2012); See also *Order on Pending Motions, Re: Application of Antrim Wind, LLC*, SEC Docket No. 2014-05, p. 15 (March 13, 2015). However, Windaction Group was still ultimately permitted to participate in prior dockets.

10. The Applicant does not object to Windaction Group's participation here generally. However, it is clear from their filing in this proceeding that their interests are not distinct from the interests raised by non-abutting landowners and certainly in no way nearly as significant as the interests of the other parties who do merit separate intervenor status; the Antrim Board of Selectman, the Harris Center for Conservation and the Audubon Society of New Hampshire.

11. It was established in the recent Antrim Jurisdictional Docket that Windaction Group consists of three persons: Lisa Linowes, her husband, Jonathan Linowes, and Rob Pforzheimer, a resident of Sutton, Vermont. See *Site Evaluation Committee Transcript Day 2 PM*, SEC Docket No. 2014-05, p. 7 and 35-40 (July 7, 2015). Ms. Linowes and her husband are residents of Lyman, New Hampshire. They live more than 130 miles from Antrim and do not own property within the town of Antrim. Therefore, as a factual matter, their interests in this proceeding do not differ from the interests expressed by non-abutting property owners and, in

fact, the interests of the Windaction Group are far more remote and attenuated than those of individual non-abutting property owners within the Town.

12. Windaction Group notes that it has “subscribers” who are near the proposed Antrim Project site. However, nowhere in their Petition does Windaction Group identify these individuals or the physical locations of their residences. This general statement in relation to unknown “subscribers” of their organization does not constitute a specific right or interest in the proceeding. In addition, even if Windaction Group’s “subscribers” do own property near the Project site, their interests would be the same as those expressed by other non-abutting landowners.

13. Given these facts, there is a compelling argument that two residents of Lyman, New Hampshire and one Vermont resident, should not even be permitted to participate here. *See Order on Pending Motions, Re: Application of Antrim Wind, LLC*, Docket No. 2014-05, p. 16 (March 13, 2015) (denying a resident of Hancock – a neighboring town to Antrim – intervenor status). Nevertheless, if they are permitted to intervene, they certainly do not have interests that should allow them to proceed as an individual party. Therefore, the Windaction Group should be grouped for purposes of the proceeding with the non-abutting property owners.

C. Abutting Property Owners

14. The Applicant requests that the following individuals be grouped together as the abutting property owners: Janice Duley Longgood, Clark Craig Jr., Brenda, Mark, and Nathan Schaefer, Bruce and Barbara Berwick, and Stephen Berwick. In the prior Antrim Wind Energy docket, the Schaefers, Janice Longgood and Clark Craig Jr. were grouped as abutting intervenors. The Applicant requests that the same treatment be given to these individuals in this proceeding and that Bruce, Barbara and Stephen Berwick be added to the abutting intervenor

group as they have indicated in their petition that their property also abuts the proposed Project area.

III. Procedural Issues

15. In order to ensure the orderly conduct of the proceedings, and the timely processing of the Application, AWE requests that certain procedures be implemented. For example, the Committee has previously required that intervenors comply with all limitations set forth in RSA 541-A:32(III) and Site 202.11(d). See, *Order on Motions to Intervene*, SEC Docket No. 2012-01, p. 11-12 (May 18, 2012).

16. Consistent with the limitations provided in RSA 541-A:32(III), the Applicant requests that all parties included in each of the groups identified above be combined for the purposes of discovery, pursuant to Site 202.12(d), presentation of evidence, and examination of witnesses. As the Committee has required in the past, the Applicant requests that each group be required to designate a spokesperson for purposes of discovery, presentation of evidence, and cross examination.

17. Given the volume of intervention requests in this docket and the importance of completing the Committee's review within the statutory period, the Applicant believes its proposals are reasonable and will significantly advance the effort to ensure the orderly conduct of the proceedings.

Respectfully submitted,

McLANE MIDDLETON,
PROFESSIONAL ASSOCIATION

Dated: January 25, 2016

By: 

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Certificate of Service

I hereby certify that on the 25th of January 2016, an original and one copy of the foregoing Response was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the service list.



Barry Needleman