

**STATE OF NEW HAMPSHIRE  
SITE EVALUATION COMMITTEE**

**Docket No. 2015-02**

**Re: Application of Antrim Wind Energy, LLC  
For a Certificate of Site and Facility**

**July 7, 2016**

**ORDER ON MOTION  
TO HAVE TECHNICAL SESSION TRANSCRIBED**

**I. Introduction**

A technical session with witnesses for both the Intervenors and Counsel for the Public is scheduled for July 12 and July 13, 2016. This Order denies the Applicant's Motion to Have Technical Session Transcribed.

**II. Applicant's Motion**

On June 27, 2016, the Applicant filed a Motion to have the technical session transcribed and to have a transcription prepared by a licensed stenographer. The motion singularly relies on the fact that such requests were allowed in the past in other dockets.

**III. The Objection**

Counsel for the Public objected to the Applicant's request on July 5, 2016. Counsel for the Public relies on statements made by counsel to the Committee, while presiding at the Prehearing Conference held on February 25, 2016. Counsel for the Public argues that the parties, relied, in good faith, on the statement of counsel to the Committee who was serving as presiding officer at the time of the prehearing conference. At the Prehearing Conference, counsel to the Committee advised the parties that technical sessions would not be recorded or transcribed. As a result, Counsel for the Public claims that neither she nor the Intervenors requested the Subcommittee to allow them to record the prior technical session where the Applicant's

witnesses were examined. Counsel for the Public also asserts that the Applicant's request is untimely because it was not filed before the first set of technical sessions. Counsel for the Public claims that it is unfair to grant the Applicant's motion, which was filed just fourteen days before the second set of technical sessions, and after the Intervenors and Counsel for the Public conducted an unrecorded technical session, and should, therefore, be denied.

#### **IV. Analysis**

All of the technical sessions in this docket were scheduled by a Procedural Order issued on March 25, 2016. The Applicant had ample opportunity to request transcription in advance of the first set of technical sessions. The Applicant chose, however, not to make such a request at that time. The first technical session, where the Applicant's witnesses were questioned, was not recorded. It would be unfair to the other parties to allow recording and transcription at this point since the Applicant's request was made after the first round of technical sessions.

Further, Counsel for the Public correctly cites counsel to the Committee's admonition to the parties about recording technical sessions. At the Prehearing Conference, counsel to the Committee specifically advised the parties that technical sessions in this docket would not be recorded:

We have stopped, I know this question is going to come up, so I'm going to head it off at the pass, we're not recording, we're not doing verbatim technical sessions any more. We're not recording them and making a transcript of them. They were never meant to be depositions, and, unfortunately, a few times when we have tried to record them, they have turned into depositions. It also stils the conversation. Transcript, February 25, 2016, p. 45.

Given the statements of counsel to the Committee, it would be similarly unfair to the other parties to allow recording and transcription where they relied on these statements for the first round of technical sessions.

The purpose of technical sessions is for the parties and their experts to understand the testimony of the witnesses and engage in a dialogue about that testimony. A technical session is not designed to provide an opportunity for cross-examination, nor is it designed to allow parties to set up methods of impeachment.

Notably our administrative rules designate data requests as the primary form of discovery. *See* N.H. Code of Administrative Rules Site 202.12. The rule references both technical sessions and depositions as available discovery methods which shall be authorized when “it is necessary to enable the parties to acquire evidence admissible in a proceeding.” *Id.* The rule makes a distinction between technical sessions and depositions. *Id.* Depositions, in civil judicial proceedings, are formal statements generally under oath and transcribed. Technical sessions are a more informal method for understanding information that has already been provided in the form of pre-filed testimony. The Applicant’s motion does not state reasons why a deposition type of process is necessary to enable the parties to acquire evidence that would be admissible in the proceeding. To the extent that a deposition format is sought, the Applicant has not met its burden to demonstrate that such a format is necessary.

**V. Conclusion**

Therefore, the Applicant’s request to record the technical sessions scheduled for July 12, 2016 and July 13, 2016 is denied.

**By Order of the Site Evaluation Committee, this seventh day of July, 2016.**

  
\_\_\_\_\_  
Robert R. Scott, Presiding Officer  
Site Evaluation Committee