

## NH SEC Committee Meeting, March 25, 2021

Dear Chairwoman Martin and SEC Committee members,

My name is Lori Lerner. I was the President of NH WindWatch during the time of significant procedural changes to the SEC Committee, along with major changes to the SEC Statute and Rules, which were intended to increase public engagement and confidence in the siting AND compliance of large energy facilities.

There are a number of significant concerns related to the administration and oversight of AWE's compliance by the NH SEC.

### 1. Communications/Transparency

Pre-SB245, the SEC maintained the project "service list" (defined by Site 102.47), from the very initial communication of a proposed project through to development, operation and compliance of the facility. In looking back at the Groton Wind docket, there was a request to reopen the record to record compliance issues. At that time, there was no SEC Administrator available to assist the public through the Complaint process yet communications went smoothly.

Post-SB245, the Antrim Wind (AWE) service list was abandoned once the project went into operation, without any notice to the AWE service list. All communications were to be directed to the SEC Admin. Apparently, there is a 'public meeting service list' that is being used to notify interested parties of any public meetings, unfortunately none of the AWE service list public members were notified of this change, resulting in the public participants and intervenors being unaware of meetings, agenda, etc. There is no consistency as to where updates (filings, complaints, etc) are being posted. It's completely random. There are some documents posted to the general SEC website pages while others are posted to the Antrim Wind docket (2015-02) Post-Certificate Filings website page.

**Recommendation:** Until the AWE operational issues are resolved and the project is stabilized, the AWE service list should be utilized to communicate all project-related information (filings, meetings, agendas, etc) and *all* AWE related documentation should be posted under the AWE Post-Certificate Filing website page. All documents should be posted in a timely manner with the date it was posted, NOT the internal document date. The public deserves open communications and transparency.

### 2. Compliance issues / Adherence to the SEC Rules

*A. Sound Compliance testing* – AWE's interpretation of the SEC sound compliance Rule allowing for an averaging of the sound over an hour has no merit. It's clear from the language of the Rule and precedent from prior NH wind facilities, the clear intent is a "shall not exceed" measurement at a .125 second interval.

To simplify the difference between these approaches, consider this analogy. You are driving on Rt 93 with a 70MPH speed limit. You are pulled over by a police officer for a clocked speed of 110MPH. Based on the AWE interpretation, you would explain to the police officer that you had been going 50MPH previously, for an average speed of 70MPH over the course of the hour. Really??? Good luck with that! The speed limit, like the SEC sound compliance Rules, are a SHALL NOT EXCEED law. Any exceedance of the 70MPH speed is illegal/non-compliant.

The abutters most significantly impacted by the sound of the turbines have rightly denied access to their property until this discrepancy in sound compliance determination is resolved. Site Rule 302.05 stipulates that the committee must find that “the waiver serves the public interest” and “the waiver will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee.” The AWE certificate was granted based on the specific sound test locations due to the likelihood of greatest sound impact. It is NOT in the public interest to simply eliminate locations based on the request of AWE and *their* interpretation of the law. Much of the time this facility has been operational has been during a time when the abutters have been in a lockdown due to COVID and are unable to escape the, at times, excessive noise. Too much time and attention has been given to AWE and their ‘hired experts’. It’s time to take a step back and listen to the people who are directly impacted by this facility so it can be properly evaluated and provide confidence the facility is not impacting the health and well-being of those living in its shadows.

### *B. Motion Activated Lighting –*

Antrim Wind (AWE) was permitted with the condition of utilizing an Aircraft Detection Lighting System (ADLS) (SEC Decision and Order, March 17, 2017 at 154). The SEC Subcommittee determined that ADLS was required to prevent an unreasonable adverse effect on health and safety (SEC Decision and Order, March 17, 2017 at 156) and was to be installed and operational prior to the Facility going into operation (SEC Decision and Order, March 17, 2017 at 156). A complaint was filed with the SEC Admin in February 2020 to alert her to this compliance issue (constant flashing red nighttime lights). AWE was immediately notified of the violation, yet over a year has passed and the ADLS is still not operational. The SEC has not taken any action.

Per Site Rule 302.01, it is the responsibility of the SEC Committee or Administrator to provide notification of the violation and order the violation be terminated immediately. If the ADLS was not operational within 15 days of the violation notice, the committee was required to commence a proceeding to suspend the certificate. This action is long overdue!

### **CONCLUSION**

The fact that the SEC Committee held a public meeting on November 23<sup>rd</sup> and again today, which contained agenda items referencing specific individuals directly impacted by the decisions made, without providing notice to the AWE service list is inexcusable. For so many reasons, including but not limited to, the sound complaints and inoperable ADLS, the only

rational remedy would be to reverse the decisions of the November 23<sup>rd</sup> meeting, reopen the AWE docket and schedule an adjudicative hearing to review all the issues and complaints with the Antrim Wind facility.

Sincerely,

Lori Lerner