

**PUBLIC MEETING OF THE
NH SITE EVALUATION COMMITTEE**

Comments by LORI LERNER

December 11, 2023

Chairman Goldner, members of the SEC, thank you for the opportunity to speak today. For the record, my name is Lori Lerner. I am a resident of the state of New Hampshire.

My testimony comments on the ADLS issue as referenced in the Administrator's October 11, 2023 summary report.

The subcommittee has concluded that Antrim Wind is compliant with its certificate regarding the ADLS based on the following:

1. The SEC permit only requires ADLS to be installed with no performance standard for how long lights can be on.
2. A 20-30% on-average nighttime illumination period is good enough for determining compliance with the certificate.

Taking the latter claim first, there is insufficient data available from Antrim Wind to show that the 20-30% on-average "lit" condition is reliable. Antrim Wind has provided only 2 months of data since the presumed final repair was completed this past June. Given the extended timeframes when the ADLS was inoperable, it is not possible to assess performance across similar periods from one year to the next. Consequently, there is no basis for concluding the ADLS will deliver consistent performance month-to-month or year-to-year. See Attachment A.

There is also no evidence in the record that confirms Antrim Wind took all actions necessary to ensure the ADLS is operating as efficiently as possible. Documents submitted by Antrim Wind on May 17, 2021, June 17, 2021, and January 31, 2022 show that a flight test was slated to be flown during a period of full-foliage cover to test the ADLS functionality but there is no record this flight test happened.¹

"Due to the geographic relief and tree canopy around the Antrim Wind facility," Antrim Wind has stated that "a land "mask" is required to prevent the ADLS system from activating turbine lights due to detections of the tree canopy," The land "mask," according to Antrim Wind, may need to be updated annually to reduce the frequency of light activations at facility.² There is no information in the record that this step was implemented.

While these are concerning deficiencies, the larger question of compliance is tied to the intent of the SEC when it issued the certificate and the requirements imposed on the SEC by RSA 162H.

¹ Attachment J, Antrim Responses to the NHSEC Subcommittee information requests of December 6, 2021 at 5, January 31, 2022. https://www.nhsec.nh.gov/projects/2021-02/documents/2022-01_attachments_i-q.pdf

² *Id* at 6

The SEC found in 2017 that by installing the ADLS prior to the Antrim facility being placed in service, it would ensure the facility does not create an unreasonable adverse effect on aesthetics.

This decision was taken after the SEC accepted the sworn testimony by Antrim Wind that “the system will only activate the nighttime FAA obstruction lights in the event that there is an aircraft flying at low altitude at night in close proximity to the Project, which will almost eliminate this nighttime light source.”³ On this basis, the SEC did not require Antrim Wind to provide detailed information about nighttime lighting including visual simulations of nighttime conditions (NH Site 301.05(b)(9)).

The Committee’s expectation of the ADLS performance is derived directly from Antrim Wind’s statements and memorialized in an exchange between Presiding Officer Robert Scott and John Clifford of the PUC legal division:

When asked by presiding officer Scott if the committee may have erred in its consideration of nighttime lighting, Mr. Clifford responded “I don't think we erred in that area because we -- again, we addressed that through the radar lighting system ... And it seems to me that that new technology avoids the issue of having them [the lights] on from, you know, sunset to sunrise. So, to that extent, I believe that we covered they were only going to light up ... when jet aircraft approached, and for a limited period of time. So I think we discussed that, and so I see nothing new here.”⁴

The Committee members also understood that installing the ADLS *prior* to the facility being placed in service was necessary or else their review of the application relative to nighttime lighting would be incomplete.⁵

RSA 162H:16 requires that “After due consideration of all relevant information regarding the potential siting... the committee shall find (among other things) that: (c) The site and facility will not have an unreasonable adverse effect on aesthetics.”

In Docket 2015-02, Antrim Wind did not provide the information necessary for the SEC to conduct a thorough review of the impacts of nighttime lighting. There were no witness testimonies, no exhibits related to nighttime lighting, and no cross-examinations or informed deliberations that investigated the level of lighting that could result in an unreasonable adverse effect.

³ Bird and Bat Conservation Strategy for the Antrim Wind Energy Project at 47, July 9, 2016.

<https://www.nhsec.nh.gov/projects/2015-02/application/documents/10-02-15-sec-2015-02-appendix-12f-bbcs-07-9-15.pdf>

⁴ Transcript at 91. May 5, 2017. https://www.nhsec.nh.gov/projects/2015-02/transcripts/2015-02_2017-05-05_transcript_rehearing.pdf

⁵ Transcript at 57. December 7, 2016. https://www.nhsec.nh.gov/projects/2015-02/transcripts/2015-02_2016-12-07_transcript_delib_day1_pm.pdf

CMNR. ROSE: ...I think it's reasonable for us to assume that that [the ADLS] would be something that would be in place prior to its operation.

MR. CLIFFORD: I thought that was one of the key assumptions we were making and that's why we didn't see nighttime visual simulations.

PRESIDING OFFICER SCOTT: And I think I agree with Commissioner Rose. I'd be a little bit uncomfortable with the level of analysis that's been done, assuming it doesn't happen. That, to me, is something that wasn't fully vetted. ...without that condition, I feel we're a bit on unstable ground I think.

If this committee were to accept the subcommittee's recommendation that 20 to 30% "on average" illumination is an acceptable lighting threshold, such an action would be unilateral, arbitrary, an abuse of discretion and contrary to RSA 162H.

The correct process for moving forward would be to open an adjudicative proceeding on this issue and investigate the lighting question to determine an evidence-based threshold for lighting. The SEC should also require Antrin Wind to proceed with its flight test and land "mask" mitigations and to continue to report performance levels.

Thank you.

Attachment A: Antrim Wind ADLS Performance
June 1 2021 to August 16 2023

