

STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE

No. 2015-02

ANTRIM WIND ENERGY LLC

**Order on Pending Matters Including the Request for
Waiver of Portions of N.H. Administrative Rule Site 301.18**

January 5, 2021

The New Hampshire Site Evaluation Committee (Committee) held a public meeting on November 23, 2020. Notice of the meeting was published, pursuant to RSA 91-A:2, II, on the website of the Committee and at the offices of the Public Utilities Commission and the Department of Environmental Services. Due to the current state of emergency the public meeting was conducted through the state's remote video platform, WebEx. Chairwoman Martin was the presiding officer. The following members of the Committee were present and constituted a quorum of the committee:

Chairwoman Dianne Martin

Vice Chairman Robert R. Scott

Commissioner Victoria Sheehan

Michael York as designee for Commissioner Sarah L. Stewart

Wilfred Arvelo as designee for Commissioner Taylor Caswell

Susan V. Duprey. Full Public Member

George I. Kassas, Full Public Member

Michael J Iacopino, counsel to the Committee, was also present. The meeting was recorded verbatim.

The subject of the meeting was to review post-certificate filings pertaining to the Antrim Wind Energy facility (Antrim Wind) in Antrim. The agenda included:

1. Request by TransAlta on behalf of Antrim Wind for waiver of N.H. Admin. R. Site 301.18(e)(5) and (7);
2. Peer Review of the Acentech Winter 2020 Sound Monitoring Report by Cavanaugh Tocci Associates dated September 4, 2020 (revised);
3. Complaint validation and sound measurement report by Cavanaugh Tocci dated September 2, 2020 (revised) (This agenda item was not reached due to time limitations.)

Members of the public were permitted to address the Committee on the agenda items considered by the Committee.

**Agenda Item 1: Request by TransAlta for Waiver of
N.H. Admin. R. Site 301.18(e)(5) and (7).**

A. The Waiver Requests

On July 24, 2020, TransAlta, parent company of Antrim Wind filed a letter requesting the Committee to waive N.H. Admin. R. Site 301.18(e)(5) and (7). The rules require the operator of a wind energy facility to perform a post-construction sound monitoring survey within three months of the commissioning of the facility and once in each season for three seasons thereafter. *See* N.H. Admin. R. Site 301.18 (e)(7). The sound monitoring study must use sound measurements taken at “the same locations at which predictive sound modeling study measurements were taken” before construction. *See* N.H. Admin. R. Site 301.18 (e)(5). TransAlta sought a waiver of the rules. TransAlta requested the Committee to waive the requirement that sound measurements be taken at Location 4 for all sound studies. TransAlta also asked that the 2020 Spring Sound study be deferred to Spring 2021.

TransAlta presented two reasons for the waiver request. First, TransAlta represented that the landowner at Location 4 has refused to allow TransAlta representatives to access the property to conduct sound measurements. Second, TransAlta represented that Turbine 3 was not operating from May through June 2020 and that the absence of Turbine 3 could skew the overall sound measurements and fail to achieve a true understanding of the sound profile of the facility.

B. Standard of Review

The Committee first discussed the standard to allow a waiver request. The Committee recognized that to waive a rule it must be satisfied that:

- (1) The waiver serves the public interest; and
- (2) The waiver will not disrupt the orderly and efficient resolution of matters before the committee or subcommittee.

See N.H. Admin. R. Site 302.15 (a). When determining whether a waiver request is in the public interest the rule requires a waiver if:

- (1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or
- (2) The purpose of the rule would be satisfied by an alternative method proposed.

See N.H. Admin. R. Site 301.15(b).

The Committee found the requested waivers will serve the public interest and will not disrupt the orderly and efficient resolution of matters before the Committee. Waiver of the rules will support the efficient resolution of matters before the Committee.

C. Location 4

Compliance with the N.H. Admin. R. Site 301.18 (e)(5) would be onerous for Antrim Wind. As the owners of Location 4 will not permit representatives on the property to perform the seasonal sound study measurements in the same location as the

preconstruction measurements, there is no reasonable method for Antrim Wind to conduct the seasonal sound studies from Location 4. As long as Antrim Wind cannot access the property Antrim Wind cannot comply with the rule. Nevertheless, before any future sound measurements are taken for the purpose of seasonal sound monitoring Antrim Wind must again seek permission to take sound measurements from Location 4. If permission is granted Antrim Wind shall include Location 4 in its measurements and in its seasonal sound monitoring study. If permission is not granted the study shall be conducted without measurements from Location 4.

D. The Spring 2020 Sound Monitoring Study

As part of the waiver request Antrim Wind seeks to defer the Spring 2020 Seasonal Sound Monitoring Report until Spring 2021. Antrim Wind represented that Turbine 3 was inoperable through May and June 2020. Antrim Wind asserts that the sound monitoring survey would not achieve its purpose absent sound contribution from Turbine 3. If sound measurements were taken without the presence of sound from Turbine 3 the results would skew low and would not present a realistic assessment of the sound emanating from the facility when fully operable. By deferring the spring sound monitoring study to 2021 the Committee is better served because the study will include noise emanating from Turbine 3 and will provide a better understanding of noises generated by the facility during the spring season.

The Committee found that deferring the Spring 2020 Sound Monitoring Study until Spring 2021 serves the public interest in that the deferral until Spring 2021 when all of the turbines are operating will support better accuracy in the monitoring and measuring

of sound emanating from the facility. The deferral of the study is a reasonable alternative method designed to achieve better results.

Agenda Item 2: The Acentech Winter 2020 Sound Monitoring Report

The second item on the agenda involved the receipt of the peer review report of the Winter 2020 Sound Monitoring Report. On or about May 12, 2020, Antrim Wind filed its Winter 2020 Sound Monitoring Program Report. The report was prepared by a consultant, Acentech. The Committee received several complaints regarding the report. In the light of those complaints, the Administrator retained Greg Tocci of Cavanaugh and Tocci Associates to conduct a peer review analysis of the Acentech report. On September 4, 2020 Mr. Tocci filed the peer review report. The peer review confirmed that TransAlta used a methodology that conformed to the rules set out in N.H. Admin. R. Site 301.18 (e) - (h). Based on the data accumulated by Acentech, Mr. Tocci agreed that the conclusions regarding sound pressure measurements were correctly determined.

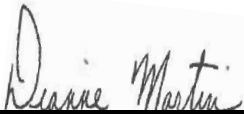
Filing seasonal sound monitoring reports with the Committee is required by our rules. Here, having reviewed the Acentech report, having reviewed the peer review report from Mr. Tocci and having questioned Mr. Tocci the Committee voted to receive and accept both the Acentech report and Mr. Tocci's peer review of that report.

Agenda Item 3: Complaint Validation and Sound Measurement Report

The third agenda item, review of certain noise complaints and the complaint validation and sound measurement of Mr. Tocci was not reached. The matter is deferred until another meeting of the Committee.

It is hereby ordered:

1. The Request by TransAlta on behalf of Antrim Wind Energy to waive the location requirement of N.H. Admin. Rule 301.18 (e)(5) regarding Location 4 in future sound monitoring studies is granted so long as the landowner at Location 4 prohibits access to Antrim Wind or its agents; and,
2. TransAlta's request on behalf of Antrim Wind Energy to waive N.H. Admin. Rule 301.18 (e)(7) and to defer the Spring 2020 Sound Monitoring Report until Spring 2021 is granted; and,
3. Review of the noise complaints and the complaint validation and sound measurement report is deferred to a later meeting of the Committee.



Dianne Martin, Chairwoman



Robert R. Scott, Vice Chairman



Victoria Sheehan



Michael York,
Designee for Sara Stewart



Wilfred Arvelo,
Designee for Taylor Caswell



Susan V. Duprey, Full Public Member



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