

April 13, 2021

Dianne Martin, Chairperson  
New Hampshire Site Evaluation Committee  
21 South Fruit Street, Suite 10  
Concord, NH 03301

Dear Chairperson Martin:

We are writing in follow-up to the January 29, 2021 letter of Senators Bradley, Giuda, Ward and Representative Vose concerning the public's ability to be heard by the Site Evaluation Committee. In particular, Senators Bradley, Giuda, Ward and Representative Vose objected to 1) the Committee's delegation of its permit compliance authority to the SEC Administrator, 2) the high monetary costs of challenging the Administrator's decisions,<sup>1</sup> and 3) the failure of the Committee to notify Antrim's Selectboard, residents and other impacted parties of the November 23 meeting. In light of the failure to notify, the Committee was asked to reconsider its actions of November 23 and allow for all parties to be heard.

Since the January 29<sup>th</sup> letter, we had the opportunity to monitor the Committee at its March 25<sup>th</sup> meeting and through press reports. We had hoped for the Committee to engage more fully with the public, however, what we saw was quite the opposite. We observed a Committee confused by its own rules and seemingly unwilling to allow for a full and fair hearing over the turbine noise standard and monitoring methodology. Remarkably, a full year has passed since Senators Giuda and Ward and Representative Vose first raised the turbine noise issue with you in their April 17, 2020 letter, yet it remains unresolved today.<sup>2</sup>

We are concerned that the same stunted engagement will continue before the 3-person Subcommittee now tasked with recommending the methods for measuring and analyzing turbine sound.<sup>3</sup> Given an April 23<sup>rd</sup> deadline for the Subcommittee to submit its recommendations, there is simply no time for a meaningful assessment. This matter is highly contested, and the interests of many parties are implicated, including Antrim Wind. The public interest is best served when all parties have a voice. The Committee, however, has shown a striking unwillingness to hear from the public. At the two meetings where the public had been given prior notice, speakers were limited to just 5 minutes and 3 minutes respectively.<sup>4</sup> Limiting the public's voice in this process is exactly the wrong thing to do, especially when the parties have demonstrated considerable knowledge of the topic. We ask that you schedule a full adjudicative hearing with witness testimony, evidence and briefs so that all parties can respond appropriately.

During the March 25<sup>th</sup> meeting, the Committee members also discussed whether changes to the existing rules might be necessary to add clarity. Clarity is important, but we caution the Committee that this is not the time to rewrite the rules nor engage in a rule-making process. In the Antrim Wind matter, the Committee should be looking at prior SEC deliberations related to turbine noise as well as the plain language of the

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<sup>1</sup> The Committee has required complainants to file petitions for declaratory ruling in order to challenge decisions of the Administrator. Filing such a petition carries fees per RSA 162-H:8-a II(d)(2).

<sup>2</sup> *Letter to SEC Chair Outlining Constituent Concerns* at 2. April 17, 2020. [https://www.nhsec.nh.gov/projects/2015-02/post-certificate-filings/2015-02\\_2020-04-17\\_ltr\\_chair\\_constituent\\_concerns.pdf](https://www.nhsec.nh.gov/projects/2015-02/post-certificate-filings/2015-02_2020-04-17_ltr_chair_constituent_concerns.pdf) (also cites lack of enforcement of Antrim Wind's certificate requiring radar-based lighting operate as intended.)

<sup>3</sup> *Order Appointing Subcommittee. 04-02-2021*. [https://www.nhsec.nh.gov/projects/2021-02/orders\\_notices/2021-02\\_2021-04-02\\_order\\_appoint\\_subcommittee.pdf](https://www.nhsec.nh.gov/projects/2021-02/orders_notices/2021-02_2021-04-02_order_appoint_subcommittee.pdf)

<sup>4</sup> Meetings were held on July 29, 2020 and March 25, 2021. The public was not notified of the November 23, 2020.

rule and the plain meaning of the words used. An interpretation of the rule that imposes an hourly average component to the turbine noise standard could amount to *de facto* rule-making.

Finally, the Committee's apparent unfamiliarity with its own rules, including the turbine noise standard and monitoring methods, is concerning and needs to be addressed. As required under RSA 162-H:3 VII *all* Committee members must undergo annual training on the provisions of RSA 162-H and administrative rules as they apply to reviewing and evaluating applications. New committee members, and any designees to a subcommittee are required to complete training *prior* to serving on any committee or subcommittee proceeding. We ask that you provide details on when the current Committee members received their training and the extent to which the training addressed turbine noise rules.

Thank you for your attention to this serious matter. We look forward to your timely response.

Respectfully,



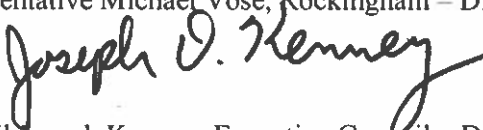
Senator Bob Giuda, NH Senate District 2



Senator Ruth Ward, NH Senate District 8



Representative Michael Vose, Rockingham – District 9



Council Joseph Kenney, Executive Council – District 1