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Before the Committee on Energy and Technology

Testimony RE: House Bill 6249:

**AN ACT ESTABLISHING A MORATORIUM ON THE SITING OF
WIND PROJECTS UNTIL THE ADOPTION OF REGULATIONS**

Madam Chair and Members of the Committee:

My name is Nicholas Harding; I am an attorney admitted to practice in Connecticut, and have practiced law in Connecticut since 1979. I practice law with the law firm of Reid and Riege, PC in Hartford, Connecticut. I currently represent FairwindCT, Inc.

I had the good fortune to start my legal career as a tax lawyer, and spent the first six years of my career as a tax lawyer, and toward the end of that tenure, I spent time working on the syndication of real estate and equipment leasing tax shelters. With the 1986 Tax Reform Act, tax shelters went away, though many of the features of tax shelters have returned in another form. Many of the techniques which encouraged people to do tax motivated transactions in the early 1980s that did not have economic substance have found their way back into the Internal Revenue Code as a means of encouraging the development of alternative sources of energy.

After 1986 I was recycled into environmental law. And since that time I have devoted substantially all of my time dealing with environmental issues.

Over the years I have been involved in the siting of some controversial electric generation projects. These projects raised controversy and opposition from either citizens or from a competing organization such as the Connecticut Resources Recovery Authority. These projects were eventually permitted pursuant to a series of complex regulatory requirements at local, state and federal levels.

These requirements included compliance with:

- Local planning and zoning regulations (and in two cases changing the local planning and zoning regulation to allow the proposed use);
- local inland wetlands regulations;
- a wide array of Connecticut DEP permits including air, water diversion, water discharge, solid waste, etc.;

- the Connecticut Siting Council certificate of public need and environmental compatibility process; and
- US Army Corps of Engineers wetland permitting.

Each of the projects was much the better for having to comply with state and local regulations. Without having to comply with the local regulatory requirements, each of the towns would have been stuck with a project that was designed only by the developer.

Each project was much the better for having to comply with an array of state and federal regulations as well. Without regulation at the state level development would have only been driven by the incentive to keep costs at the lowest possible level, regardless of the consequences. Regulation at the state level provided the developers and their engineering teams with an understanding of the minimum requirements expected by the Connecticut state agencies.

Wind energy played a very important role in the early history of Connecticut. Wind energy was displaced by more reliable forms of energy in the 20th century and wind became a recreational form of energy, used principally by sailors and some glider pilots. In the course of the 20th century elaborate regulatory schemes were put in place to protect the people, towns and natural resources of the state from the newly developed forms of energy.

With the return of wind as an industrial energy source it is important to protect the interests of the people, towns and natural resources of the state from the inappropriate redevelopment of wind resources as a form of energy. Renewable energy projects should not be allowed to become the 21st century version of the 20th century abusive real estate or equipment leasing tax shelter. If wind turbines that are approximately as tall as City Place are to be perched on hilltops in the northwest corner of the state, and perhaps some day, on ridgelines like Avon Mountain, they should be sited on some basis that is subject to review such that the interests of local towns, residents and the natural resources of the state are all protected. No form of energy should be sited without thought to consequence. No form of energy should be sited without regard to other values that have been long treasured by the citizens of the State of Connecticut, including the values of home rule and the protection of the natural resources.

With the advance of distributed generation this body chose to allow many projects to go forward by declaratory ruling before the Connecticut Siting Council. Distributed generation and cogeneration projects were ancillary to another use which had already been approved by local land-use regulatory bodies. The addition of a generator or turbine at a factory that was already producing steam for industrial uses, at certain sizes did not need the full certificate of need process for siting. Land-use decision had already been made with the siting of the original factory. The addition of a cogeneration turbine to capture waste steam made sense. The conversion of this declaratory ruling process for other purposes, such as the siting of wind turbines, without a regulatory scheme to protect the interests of the local citizenry, town or the natural resources of the state should be clarified by the adoption of HB 6249.

We all are fans of energy and look forward to the development of reliable clean energy sources. These need to be developed in a thoughtful manner and not without regard to local concerns.

Respectfully submitted,

Nicholas J. Harding