STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL
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February 5, 2013

The Honorable Selim Noujaim, Co-Chairperson
The Honorable Andres Ayala, Co-Chairperson
Honorable Members of the Legislative Regulations Review Committee
Room 011, Capitol Building
Hartford, CT 06106

RE: **CSC WIND REGULATIONS** – Adoption of Regulations pursuant to Public Act 11-245, An Act Requiring the Adoption of Regulations for the Siting of Wind Projects, Sections 16-50j-2a, 16-50j-18 and16-50j-92 to 16-50j-96, inclusive, of the Regulations of Connecticut State Agencies.

Dear Representative Noujaim, Senator Ayala and Honorable Members of the Legislative Regulation Review Committee:

Pursuant to Section 4-170 of the Connecticut General Statutes, the Connecticut Siting Council (Council) hereby re-submits the above-referenced proposed regulations for the Legislative Regulation Review Committee's (Committee) consideration and approval regarding the adoption of regulations for the siting of wind projects. These regulations revisions were previously rejected without prejudice by the Committee at its December 18, 2012 meeting. The Council has made revisions to its original proposed regulations to address the items enumerated in the Legislative Commissioner's Office (LCO) Report dated December 18, 2012.

The proposed revisions address the **Substantive Concerns** in the LCO Report as follows:

1) **(a)** The LCO Report stated that the previous version of the wind regulations submitted did "not include a consideration of different requirements for projects of different sizes."

   The Siting Council disagrees with this assertion because under the Siting Council's enabling statute, the Public Utility Environmental Standards Act, project size is determined by generating capacity rather than by height. Additionally, Siting Council jurisdiction is limited to facilities with a generating capacity of more than one megawatt (MW).

   Pursuant to C.G.S. §16-50i(a)(3), the Siting Council does not have jurisdiction over electric generating facilities that are owned and operated by private power producers, which are qualifying small power production facilities under the federal Public Utility Regulatory Policies Act and which utilize renewable energy sources with a generating capacity of 1 MW or less. All three of these criteria must be met to qualify for exemption from Siting Council jurisdiction. An example is the Phoenix Press wind turbine in New Haven.

   Pursuant to C.G.S. §16-50k(a), projects that have a generating capacity greater than 65 MW are to be submitted as applications for certificates. An example is the Cape Wind project in Massachusetts. Section 16-50j-92, "Application for a Certificate of Environmental Compatibility and Public Need" applies to projects with a generating capacity of more than 65 megawatts. Projects of this size are subject to the requirements

of Section 16-50j-59 of the Regulations of Connecticut State Agencies and Sections 16-50*l*-1 to 16-50*l*-5, inclusive, of the Regulations of Connecticut State Agencies and reference to those additional requirements is included in section 16-50j-92.

Also pursuant to C.G.S. §16-50k(a), projects that have a generating capacity of more than 1 MW, but less than 65 MW are to be submitted as a petition for a declaratory ruling. Examples are the BNE projects. Section 16-50j-93, "Petition for a Declaratory Ruling" applies to projects with a generating capacity of less than 65 MW. Projects of this size are subject to the requirements of Sections 16-50j-38 to 16-50j-40, inclusive, of the Regulations of Connecticut State Agencies and reference to those additional requirements is included in section 16-50j-93.

Application of the standards in the wind regulations is different for projects of different sizes. It is more difficult for a larger project to comply with the standards for setback distances, noise levels, shadow flicker, blade shear, ice throw and impact on natural resources than a smaller project Therefore, this resubmission does not assert Siting Council jurisdiction over facilities of under 1 megawatt and does not apply different standards to facilities of different sizes.

(b) Section 16-50j-94(f) has been revised to address "blade shear."

2) In section 16-50j-92, the phrase, "but not limited to" has been removed;

3) In section 16-50j-93, the phrase, "but not limited to" has been removed;

4) In section 16-50j-94(b), the phrase "of sufficient scale" has been removed;

5) In section 16-50j-94(c), the phrase, "but is not limited to" has been removed;

6) In section 16-50j-94(c)(1), the phrase, "including, but not limited to" has been removed;

7) In section 16-50j-94(d), the phrase, "include, but not be limited to" has been removed;

8) In section 16-50j-94(d)(1), the phrase, "including, but not limited to" has been removed;

9) In section 16-50j-94(e), the phrase, "include, but not be limited to" has been removed;

10) In section 16-50j-94(f), the phrase, "include, but not be limited to" has been removed;

11) In section 16-50j-94(g), the phrase, "not be limited to" has been removed;

12) In section 16-50j-94(h), the phrases, "includes, but is not limited to" and "but not be limited to" have been removed;

13) Sections 16-50j-94(h)(1)(C) and 16-50j-94(h)(1)(D) have been removed. Recommended standards and guidelines of the U.S. Fish and Wildlife Service and the Department of Energy and Environmental Protection are site-specific. A more detailed discussion of this substantive matter is at Paragraph 12 on Page 18 of the Summary of the Proceeding;

14) In section 16-50j-94(i), the phrase, "include, but not be limited to" has been removed;

15) In section 16-50j-95(a)(2)(B), the phrase, "but is not limited to" has been removed; and

16) In section 16-50j-95(c)(2)(B), the phrase, "but is not limited to" has been removed.

The proposed revisions address the **Technical Corrections** in the LCO Report as follows:

1) In section 16-50j-2a, new definitions have been underlined;

2) In section 16-50j-2a(10) and in section 16-50j-2a(13), as defined in Section 16-1 has been added;

3) In section 16-50j-2a(35), of a wind turbine has been added;

4) In section 16-50j-92, "customer-side distributed resources project" and "grid-side distributed resources project" have been added. Identical additions have been added to section 16-50j-93 for consistency with each of these defined terms;

5) In section 16-50j-94(d)(4), "to 22a-69-7, inclusive" has been inserted; and

6) On page 10, in section 6, "(NEW)" has been inserted before "Sec. 16-50j-95."

If you have any questions, please feel free to contact Melanie Bachman, Staff Attorney at 860-827-2951. Thank you for your consideration.

Sincerely,

Robert Stein

Robert Stein
Chairman

cc: Environment Committee
Energy and Technology Committee
Office of Fiscal Analysis
Service List (cover letter only)

Enclosures (1)