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November 20, 2020

Ms. Dianne Martin
Chairwoman
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301-2429

**Re: Antrim Wind Energy, LLC—SEC Docket No. 2015-02
Public Meeting**

Dear Chairwoman Martin:

Thank you on behalf of Antrim Wind Energy, LLC (“Antrim Wind”) for scheduling the Public Meeting on November 23, 2020, to address outstanding issues concerning sound monitoring in the above-captioned proceeding. As Antrim Wind has noted previously with respect to Agenda Item No. 1 (a), its waiver request relative to Site 301.18 (e) (5), it seeks a determination from the Site Evaluation Committee (“SEC” or “Committee”) because it has been refused access to one of the five locations designated for post-construction sound monitoring surveys (Location No. 4) to conduct the required sound measurements.

Inasmuch as some time has passed since its July 24, 2020 waiver request, Antrim Wind would like to clarify that its main proposal was to adjust the survey schedule pursuant to Site 301.18 (e) (7) (b) to defer the Spring 2020 Report until 2021, which would then proceed with either four or five locations depending on its access to the locations at that time. In addition, Antrim Wind has since performed the required measurements for the four accessible locations for what would be the Summer 2020 Report and is currently performing the measurements at the same locations for what would be the Fall 2020 Report. Antrim Wind’s preference is to prepare and file the respective Summer and Fall Reports based on the information collected from the four accessible locations. Antrim Wind’s position is that since its continuing lack of access to Location No. 4 is beyond its control that the respective Reports would satisfy the purpose of the post-construction noise monitoring compliance rule, Site 301.18 (e).

With respect to Agenda Items No. 1 (b) and (c), Antrim Wind supports the Peer Review and the Complaint Validation Sound Measurement Report submitted by Cavanaugh Tocci Associates. As it understands those reports, there is no basis for any enforcement action under Site 302 because Antrim Wind is in compliance with its Certificate and the SEC rules.

Finally, with respect to a related issue, on a number of occasions Ms. Lisa Linowes has asked the Committee to schedule a technical session, an evidentiary hearing and a briefing

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schedule to address her various claims regarding sound monitoring. In her August 18, 2020 letter, for example, she mistakenly contends that “this is clearly a contested matter which should be properly adjudicated.” More recently, she closes her September 23, 2020 letter by urging the Committee again to “schedule a tech session, an evidentiary hearing and a briefing schedule so that parties can respond appropriately.”

RSA 541-A:1, IV defines a contested case as “a proceeding in which the legal rights, duties, or privileges of a party are required by law to be determined by an agency after notice and an opportunity for hearing.” RSA 162-H:12, 1 and Site 302.01 clearly provide that the opportunity for a hearing in an enforcement matter only arises after the Committee, or the Administrator, has determined that a term or condition of the Certificate has been violated, which is not the case here. Accordingly, there is no basis in law for the technical session or other adjudicative processes proposed by Ms. Linowes inasmuch as the Committee has not commenced an adjudicative proceeding subject to the provisions of RSA 541-A:31 through RSA 541-A:36. Conversely, it is equally clear that the Committee’s (or Administrator’s) determination in the first instance of whether there is a violation of the Certificate is not a contested case under the New Hampshire Administrative Procedure Act.

Antrim Wind therefore respectfully requests that the Committee grant the requested waiver and adopt the findings of both the Peer Review and the Complaint Validation Sound Measurement Report submitted by Cavanaugh Tocci Associates. Antrim Wind further requests that the Committee deny any request for a technical session, evidentiary hearing, or briefing schedule as contrary to law and proper procedure.

Sincerely,



Barry Needleman

BN:smm