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October 10, 2019

Pamela Monroe, Administrator
New Hampshire Site Evaluation Committee
21 South Fruit Street, Suite 10
Concord, NH 03301

**Re: Docket No. 2019-03, Antrim Level LLC
Petition for Declaratory Ruling
Objection to Petitions to Intervene**

Dear Ms. Monroe:

Enclosed please find an original and one copy of Antrim Level LLC's Objection to Petitions to Intervene of Richard Block and Shelley Nelkens and Request for Expedited Ruling in the above-captioned proceeding. A copy of the enclosed filing has also been sent electronically to the service list.

Please let me know if you have any questions about this filing.

Sincerely,

A handwritten signature in blue ink that reads "Thomas B. Getz". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Thomas B. Getz

TBG:slb

Enclosures

Cc: Service List

**THE STATE OF NEW HAMPSHIRE
BEFORE THE
NEW HAMPSHIRE SITE EVALUATION COMMITTEE**

DOCKET NO. 2019-03

Antrim Level LLC

**Objection to Petitions to Intervene of Richard Block and Shelley Nelkens and
Request for Expedited Ruling**

Antrim Level LLC (“Antrim Level”) by and through their attorneys, McLane Middleton, Professional Association, filed a Petition for Declaratory Ruling, or, in the Alternative, Motion for Expedited Approval of Change in Ownership or Ownership Structure (“Petition and Motion”) with the New Hampshire Site Evaluation Committee (“SEC”) on September 17, 2019. The Presiding Officer of the Subcommittee appointed for this proceeding issued an Order and Notice of Prehearing Conference and Petitions to Intervene (“Procedural Order”) on September 25, 2019, which, among other things: (1) set October 4, 2019, as the deadline for filing petitions to intervene; (2) set October 11, 2019, as the deadline for objections; and, (3) scheduled a prehearing conference for October 18, 2019.

Antrim Level objects to the intervention of Richard Block and Shelley Nelkens as explained below inasmuch as they base their intervention on irrelevant issues beyond the narrow scope of this proceeding and they fail to satisfy the requirements for intervention set out in RSA 541-A:32, I and II. In addition, Antrim Level respectfully asks that the Presiding Officer promptly decide the matter in order to facilitate the orderly conduct of the prehearing conference.

I. Background

On Sunday, October 6, 2019, Richard Block and Shelley Nelkens circulated petitions to intervene in the above-captioned proceeding; the petitions were due October 4, 2019, and they were dated October 2, 2019. In his late-filed petition, Mr. Block asserted that he could

demonstrate a substantial interest that would be affected by the outcome of the proceeding. In particular, he stated that his “[c]oncern for the potential noise, visual disturbance, and negative effect on his property” had caused him to oppose the Project from the beginning. In her late-filed petition, Ms. Nelkens also asserted that she could demonstrate a substantial interest that could be affected by the outcome of the proceeding. In particular, she stated that she had an interest in “the future of the natural community in the area” and that she has “sensitive hearing issues and is also concerned that the noise propagated by the turbines will prove harmful to her ability to continue her research.”

II. Standard for Intervention

Pursuant to RSA 541-A:32, I and Site 202.11, to intervene in an SEC proceeding: (1) the petitioner must properly file a petition; (2) the petitioner must state facts demonstrating that its rights, duties, privileges, immunities or other substantial interests may be affected by the proceeding or that the petitioner qualifies as an intervenor under any provision of law; and (3) the presiding officer must determine that the interests of justice and the orderly and prompt conduct of the proceedings would not be impaired by allowing the intervention. RSA 541-A:32, I; N.H. Code Admin R., Site 202.11(b).

III. Discussion

First, Mr. Block and Ms. Nelkens have failed to state any facts demonstrating a right, duty, privilege, immunity or other substantial interest that would be affected by this proceeding, which is limited to the narrow question of whether the manner in which Antrim Level structures and obtains tax equity financing requires SEC approval. Instead, Mr. Block and Ms. Nelkens assert various and general concerns related to issues that the SEC already heard and decided, namely, the potential effects of the Project on aesthetics, property values, natural communities,

and public health and safety in the form of noise. The SEC issued its Decision and Order Granting Application for Certificate of Site and Facility on March 17, 2017, and it issued its Order Denying Motions for Rehearing on June 21, 2017. On May 11, 2018, the New Hampshire Supreme Court affirmed the SEC's decision. Consequently, the interests they assert are beyond the scope of this proceeding.

Second, Mr. Block and Ms. Nelkens assert that their interests will not be adequately protected by other parties to the proceeding, arguing that the "Town Boards of Antrim" have not fairly addressed their interests in other forums. Antrim Level disagrees with Mr. Block's and Ms. Nelkens' contention that their interests are not adequately protected by other parties to the proceeding. Most important, on September 20, 2019, pursuant to RSA 162-H:9, the Attorney General appointed Senior Assistant Attorney General Allen Brooks as Counsel for the Public for this proceeding, who, as the title suggests, represents the public. In addition, the Town of Antrim filed a petition to intervene on September 29, 2019, which Antrim Level does not oppose. As noted above, the scope of this proceeding is extremely narrow and any interest Mr. Block or Ms. Nelkens have that relates to the actual purpose of this proceeding is no different from the interest of the public at large. Such interest will be represented by Counsel for the Public, which the SEC found in Docket No. 2014-05, *Petition for Jurisdiction over a Renewable Facility by Antrim Wind Energy, LLC*, to be an adequate basis for denying intervention. See Order on Pending Motions (March 13, 2015) p. 16.

Third, Mr. Block and Ms. Nelkens assert that their participation will be in the interest of justice and will not impair the orderly and prompt conduct of the proceedings, and they both contend that they understand and respect the hearing process. The petitions of Mr. Block and Ms. Nelkens belie their assertions inasmuch as they appear to view this proceeding as another

opportunity to make arguments about issues that have already been decided and they do not address the single issue before the Subcommittee in this proceeding. Furthermore, they circulated their petitions to intervene after the deadline for filing and they do not appear to understand the process.

Fourth, even though they do not have an interest affected by the proceeding that would justify their participation as a party, as pointed out in the Procedural Order, Mr. Block and Ms. Nelkens, in accord with RSA 162-H:10, III, may make public comments about the Petition and Motion. As a matter of process, the opportunity to make such comments, which the SEC must consider and weigh, satisfactorily corresponds with general concerns that Mr. Block and Ms. Nelkens may have about the proceeding as Antrim residents.

IV. Conclusion

In a prior proceeding, Docket No. 2018-03, *Joint Petition of Walden Green Energy Northeast Wind LLC, Walden Antrim LLC and Antrim Level LLC for Approval of the Transfer of Membership Interests in Antrim Wind Energy LLC* (“Transfer Proceeding”), Mr. Block and Ms. Nelkens filed petitions for intervention virtually identical to the ones filed here, alleging the same interests relative to property values, aesthetics and public health and safety, which were irrelevant then and are irrelevant now. See Attachments A and B. Despite Mr. Block and Ms. Nelkens failing to address the actual subject matter of the Transfer Proceeding, i.e., Antrim Level’s financial, managerial, and technical capability, the SEC supplied a rationale for their participation, concluding that their rights could be impacted by the transfer of the Certificate, thus enabling their intervention.

This proceeding is far more narrow than the Transfer Proceeding, having to do with a question of technical compliance with a standard ordering clause or condition, that is, Site

301.17 (a). Unlike the Transfer Proceeding, this proceeding does not involve Antrim Level's financial, managerial, and technical capability, nor does it concern any of the other statutory findings under RSA 162-H:16, IV, and it will not impact Mr. Block's or Ms. Nelkens' rights. Moreover, Mr. Block and Ms. Nelkens apparently took no affirmative lesson from the Transfer Proceeding and made no effort to adjust their previous petitions to the narrow subject matter of this proceeding and the limited facts at issue; inasmuch as they assert understanding of and respect for the process, they should have some burden to supply a recognizable rationale for participating as a party.

Accordingly, because Mr. Block and Ms. Nelkens failed to state facts demonstrating that their rights may be affected by this proceeding, because the interests of the public at large are adequately represented by Counsel for the Public and the Town of Antrim, because there is no evident basis for concluding that the intervention of Mr. Block and Ms. Nelkens would be in the interests of justice, and because they have the opportunity to make public comments regarding the Petition and Motion, Antrim Level asks that the Presiding Officer deny their petitions for intervention.

Finally, Antrim Level requests that the Presiding Officer act on the petitions to intervene sufficiently in advance of the prehearing conference scheduled for October 18, 2019, preferably by October 15, 2019, in order to facilitate the efficient and orderly conduct of the prehearing conference and the proceeding. As pointed out in the Petition and Motion, Antrim Level expects that it can achieve commercial operation in mid-November and close on the tax equity financing for the Project in late November if this proceeding is resolved promptly.

Respectfully submitted,

ANTRIM LEVEL, LLC

By its Attorneys,
McLane Middleton, Professional Association

Dated: October 10, 2019

By: 

Barry Needleman, Bar No. 9446

Thomas B. Getz, Bar No. 923

11 South Main Street, Suite 500

Concord, NH 03301

(603) 226-0400

barry.needleman@mclane.com

thomas.getz@mclane.com

Certificate of Service

I hereby certify that on the 10th of October 2019, an original and one copy of the foregoing Objection was hand-delivered to the New Hampshire Site Evaluation Committee and an electronic copy was served upon the service list.


Thomas B. Getz

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

RE: Joint Petition of Walden Green Energy Northeast Wind, LLC, Walden Antrim, LLC and Antrim Level, LLC for the Approval of the Transfer of Membership Interests in Antrim Wind Energy, LLC.
SEC Docket Number 2018-03

MOTION TO INTERVENE OF RICHARD BLOCK

Pursuant to New Hampshire Site Evaluation Committee Rules Site 202.11 and RSA 541-A:32, Richard Block hereby moves for permission to intervene in the above-referenced proceeding. In support of his Motion to Intervene, Richard Block offers the following arguments:

1.) Richard Block can demonstrate a substantial interest which may be affected by the outcome of the proceeding.

Richard Block has been a resident and voter of Antrim since 1988. He owns and resides on approximately 242 acres of property on Loveren Mill Road, from one-half to one-and-a-half miles from and directly facing and in full view of Tuttle Hill, the site of the proposed Antrim Wind Energy, LLC turbines. Concern for the potential noise, visual disturbance, and negative effect on his property value has caused Richard Block to actively participate and oppose this proposed project from the beginning, as a litigant and intervenor in several Superior Court cases against the Town of Antrim and as an approved Intervenor and Committee-designated spokesperson in all prior SEC proceedings relating to Antrim Wind Energy, LLC (Dockets 2011-02, 2012-01, 2014-05, and 2015-02).

2.) The interest of Richard Block will not be adequately protected by other parties.

In exercising its discretion, Richard Block respectfully asks that the Committee consider whether his interests will be adequately protected by other parties. Since he, as a resident of the North Branch region of Antrim where the wind facility is being constructed, is concerned that his interests have not been fairly addressed thus far by the Town Boards of Antrim, he does not believe that any other party to this proceeding can adequately represent his interests in proceedings before the Committee.

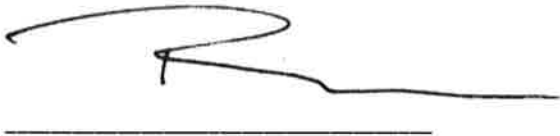
3.) The intervention of Richard Block will be in the interest of justice and will not impair the orderly and prompt conduct of the proceedings by allowing the intervention.

Richard Block petitioned for and was granted Intervenor status in Antrim Wind Energy, LLC's prior cases before the Committee (SEC Dockets 2011-02, 2012-01, and 2015-02), served in those hearings as the spokesperson for the non-abutting group of Intervenors, and thus understands and respects the hearing process.

Pursuant to the SEC Order of August 22, 2018, Richard Block files this Motion to Intervene by the deadline set forth by the Committee for Docket 2018-03 and requests that he be permitted to intervene with full standing to participate in all phases and activities of the proceeding. Richard Block respects the importance of conducting this proceeding in an orderly manner that will not unduly delay the Committee nor the parties in reaching an outcome. He is prepared to work closely with other parties to the proceeding in the interest of maintaining order and respectfully offers that his participation, if permitted, would be in the interest of justice.

Dated this 6th day of September, 2018.

Respectfully submitted,

A handwritten signature in black ink, appearing to be 'Richard Block', written over a horizontal line.

Richard Block
63 Loveren Mill Road
Antrim, New Hampshire 03440
603-588-2552
snowstar@tds.net

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

RE: Joint Petition of Walden Green Energy Northeast Wind, LLC, Walden Antrim, LLC and Antrim Level, LLC for the Approval of the Transfer of Membership Interests in Antrim Wind Energy, LLC.
SEC Docket Number 2018-03

MOTION TO INTERVENE OF SHELLEY NELKENS

Pursuant to New Hampshire Site Evaluation Committee Rules Site 202.11 and RSA 541-A:32, Shelley Nelkens hereby moves for permission to intervene in the above-referenced proceeding. In support of her Motion to Intervene, Shelley Nelkens offers the following arguments:

1.) Shelley Nelkens can demonstrate a substantial interest which may be affected by the outcome of the proceeding.

Shelley Nelkens has been a resident and voter of Antrim since 1976 residing at 11 North Main Street, Antrim, NH 03440. As part of her daily routine, Shelley Nelkens walks four to seven times per week on much of the roads and trails in the vicinity of Gregg Lake, Hattie Brown Road, and the Meadow Marsh Trail, all in close proximity to the Tuttle Hill/Willard Mountain turbine site. With degrees in biology and chemistry as well as a lifelong interest and ongoing research into plants and animals of the area, the future of the natural community in the area around the Tuttle Hill/Willard Mountain turbine site is of utmost concern to her. Shelley Nelkens has sensitive hearing issues and is also concerned that the noise propagated by the turbines will prove harmful to her ability to continue her research.

2.) The interest of Shelley Nelkens will not be adequately protected by other parties.

In exercising its discretion, Shelley Nelkens respectfully asks that the Committee consider whether her interests will be adequately protected by other parties. Since she, as a frequent user of the natural resources around Gregg Lake, is concerned that her interests have not been fairly addressed thus far by the Town Boards of Antrim, she does not believe that any other party to this proceeding can adequately represent her interests in proceedings before the Committee.

3.) The intervention of Shelley Nelkens will be in the interest of justice and will not impair the orderly and prompt conduct of the proceedings by allowing the intervention.

Shelley Nelkens testified in previous SEC dockets concerning Antrim Wind, and thus understands and respects the hearing process.

Pursuant to the SEC Order of August 22, 2018, Shelley Nelkens files this Motion to Intervene by the deadline set forth by the Committee for Docket 2018-03 and requests that she be permitted to intervene with full standing to participate in all phases and activities of the proceeding. Shelley Nelkens respects the importance of conducting this proceeding in an orderly manner that will not unduly delay the Committee nor the parties in reaching an outcome. She is prepared to work closely with other parties to the proceeding in the interest of maintaining order and respectfully offers that her participation, if permitted, would be in the interest of justice.

Dated this 6th day of September, 2018.

Respectfully submitted,

Shelley Nelkens
11 North Main Street
Antrim, New Hampshire 03440
603-588-2916

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

RE: Antrim Level, LLC Petition for Declaratory Ruling or, in the Alternative, Motion for Expedited Approval of Change in Ownership Structure
SEC Docket Number 2019-03

MOTION TO INTERVENE OF RICHARD BLOCK

Pursuant to New Hampshire Site Evaluation Committee Rules Site 202.11 and RSA 541-A:32, Richard Block hereby moves for permission to intervene in the above-referenced proceeding. In support of his Motion to Intervene, Richard Block offers the following arguments:

1.) Richard Block can demonstrate a substantial interest which may be affected by the outcome of the proceeding.

Richard Block has been a resident and voter of Antrim since 1988. He owns and resides on approximately 242 acres of property on Loveren Mill Road, from one-half to one-and-a-half miles from and directly facing and in full view of Tuttle Hill, the site of the Antrim Wind Energy, LLC turbines. Concern for the potential noise, visual disturbance, and negative effect on his property value has caused Richard Block to actively participate and oppose this proposed project from the beginning, as a litigant and intervenor in several Superior Court cases against the Town of Antrim and as an approved Intervenor and Committee-designated spokesperson in all prior SEC proceedings relating to Antrim Wind Energy, LLC (Dockets 2011-02, 2012-01, 2014-05, 2015-02, and 2018-03).

2.) The interest of Richard Block will not be adequately protected by other parties.

In exercising its discretion, Richard Block respectfully asks that the Committee consider whether his interests will be adequately protected by other parties. Since he, as a resident of the North Branch region of Antrim where the wind facility is being constructed, is concerned that his interests have not been fairly addressed thus far by the Town Boards of Antrim, he does not believe that any other party to this proceeding can adequately represent his interests in proceedings before the Committee.

3.) The intervention of Richard Block will be in the interest of justice and will not impair the orderly and prompt conduct of the proceedings by allowing the intervention.

ATTACHMENT B
Petition to Intervene
Docket No. 2019-03

Richard Block petitioned for and was granted Intervenor status in Antrim Wind Energy, LLC's prior cases before the Committee (SEC Dockets 2011-02, 2012-01, 2015-02, and 2018-03), served in those hearings as the spokesperson for the non-abutting group of Intervenors, and thus understands and respects the hearing process.

Pursuant to the SEC Order of September 25, 2019, Richard Block files this Motion to Intervene by the deadline set forth by the Committee for Docket 2019-03 and requests that he be permitted to intervene with full standing to participate in all phases and activities of the proceeding. Richard Block respects the importance of conducting this proceeding in an orderly manner that will not unduly delay the Committee nor the parties in reaching an outcome. He is prepared to work closely with other parties to the proceeding in the interest of maintaining order and respectfully offers that his participation, if permitted, would be in the interest of justice.

Dated this 2nd day of October, 2019.

Respectfully submitted,

A handwritten signature in black ink, appearing to be the name 'Richard Block', written in a cursive style.

Richard Block
63 Loveren Mill Road
Antrim, New Hampshire 03440
603-588-2552
snowstar@tds.net

**STATE OF NEW HAMPSHIRE
SITE EVALUATION COMMITTEE**

RE: Antrim Level, LLC Petition for Declaratory Ruling or, in the Alternative, Motion for Expedited Approval of Change in Ownership Structure
SEC Docket Number 2019-03

MOTION TO INTERVENE OF SHELLEY NELKENS

Pursuant to New Hampshire Site Evaluation Committee Rules Site 202.11 and RSA 541-A:32, Shelley Nelkens hereby moves for permission to intervene in the above-referenced proceeding. In support of her Motion to Intervene, Shelley Nelkens offers the following arguments:

1.) Shelley Nelkens can demonstrate a substantial interest which may be affected by the outcome of the proceeding.

Shelley Nelkens has been a resident and voter of Antrim since 1976 residing at 11 North Main Street, Antrim, NH 03440. As part of her daily routine, Shelley Nelkens walks four to seven times per week on much of the roads and trails in the vicinity of Gregg Lake, Hattie Brown Road, and the Meadow Marsh Trail, all in close proximity to the Tuttle Hill/Willard Mountain turbine site. With degrees in biology and chemistry as well as a lifelong interest and ongoing research into plants and animals of the area, the future of the natural community in the area around the Tuttle Hill/Willard Mountain turbine site is of utmost concern to her. Shelley Nelkens has sensitive hearing issues and is also concerned that the noise propagated by the turbines will prove harmful to her ability to continue her research.

2.) The interest of Shelley Nelkens will not be adequately protected by other parties.

In exercising its discretion, Shelley Nelkens respectfully asks that the Committee consider whether her interests will be adequately protected by other parties. Since she, as a frequent user of the natural resources around Gregg Lake, is concerned that her interests have not been fairly addressed thus far by the Town Boards of Antrim, she does not believe that any other party to this proceeding can adequately represent her interests in proceedings before the Committee.

3.) The intervention of Shelley Nelkens will be in the interest of justice and will not impair the orderly and prompt conduct of the proceedings by allowing the intervention.

Shelley Nelkens testified in previous SEC dockets concerning Antrim Wind, was an approved Intervenor in SEC Docket 2018-03, and thus understands and respects the hearing process.

Pursuant to the SEC Order of September 25, 2019, Shelley Nelkens files this Motion to Intervene by the deadline set forth by the Committee for Docket 2019-03 and requests that she be permitted to intervene with full standing to participate in all phases and activities of the proceeding. Shelley Nelkens respects the importance of conducting this proceeding in an orderly manner that will not unduly delay the Committee nor the parties in reaching an outcome. She is prepared to work closely with other parties to the proceeding in the interest of maintaining order and respectfully offers that her participation, if permitted, would be in the interest of justice.

Dated this 2nd day of October, 2019.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Shelley Nelkens", with a long, sweeping underline that extends to the right.

Shelley Nelkens
11 North Main Street
Antrim, New Hampshire 03440
603-588-2916