



KIMBERLY K. HAYDEN
khayden@drm.com

February 9, 2011

VIA EMAIL AND U.S. MAIL

Susan M. Hudson
Clerk
Vermont Public Service Board
Drawer 20
Chittenden Bank Building
112 State Street
Montpelier, VT 05620-2701

Re: Georgia Mountain Community Wind Project, PSB Docket No. 7508 - Motion in Limine to Exclude Evidence with Respect to Prefiled Testimonies and Exhibits of Jane and Heidi FitzGerald and Scott McLane

Dear Mrs. Hudson:

Enclosed please find the above-referenced Motion in Limine to Exclude Evidence with Respect to Prefiled Testimonies and Exhibits of Jane and Heidi FitzGerald and Scott McLane.

By first-class mail, we have provided the original and seven copies to the Department of Public Service and one copy to all other parties on the attached Service List.

Very truly yours,



Kimberly K. Hayden

Enclosures
cc: James Harrison
Attached Service List

4128712.1

**Georgia Mountain Community Wind Project, PSB Docket No. 7508
Service List**

Parties:

James H. Porter, III, Esq.
Special Counsel
Vermont Department of Public Service
Drawer 20, Chittenden Bank Building
112 State Street
Montpelier, VT 05620-2601

Kimberly K. Hayden, Esq.
Downs Rachlin Martin PLLC
199 Main Street, P.O. Box 190
Burlington, VT 05402-0190

Judith Dillon, Esq.
Cielo Marie Mendoza, Esq.
David Englander, Esq.
Vermont Agency of Natural Resources
103 South Main Street, Center Building
Waterbury, VT 05671-0301

Joseph S. McLean, Esq.
Stitzel, Page & Fletcher, P.C.
171 Battery Street
P.O. Box 1507
Burlington, VT 05402-1507

William F. Ellis, Esq.
McNeil, Leddy & Sheahan, P.C.
271 South Union Street
Burlington, VT 05401

Kenneth A. Nolan
Burlington Electric Department
585 Pine Street
Burlington, VT 05401

Greta Brunswick, Land Use Planner
Northwest Vermont Regional Planning
Commission
155 Lake Street
Saint Albans, VT 05478

George A. and Kenneth N. Wimble
Wimble Brothers Organic Dairy
1495 Georgia Mountain Road
Fairfax, VT 05454

Kenneth and Virginia Mongeon
20 Ted Road
Milton, VT 05468

Kevin and Cynthia Cook
23 Hillside Place
Milton, VT 05468

Scott and Melodie McLane
1179 Georgia Mountain Road
Fairfax, VT 05454

Daniel and Tina FitzGerald
P.O. Box 77 (40 FitzGerald Place)
Milton, VT 05468

Matthew and Kimberly Parisi
1627 Georgia Mountain Road
Fairfax, VT 05454

**Georgia Mountain Community Wind Project, PSB Docket No. 7508
Service List**

Jane FitzGerald
450 North Road
Milton, VT 05468

Brian Palaia, Town Manager
Town of Milton
43 Bombardier Road
Milton, VT 05468-3205

4006109

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Petition of Georgia Mountain Community Wind,)
LLC for a Certificate of Public Good, pursuant)
to 30 V.S.A. § 248, authorizing the construction)
and operation of a 5 wind turbine electric)
generation facility with associated electric)
collection and interconnection facilities on)
Georgia Mountain, in the Towns of Milton and)
Georgia, Vermont, to be known as the “Georgia)
Mountain Community Wind Project”)

Docket No. 7508

MOTION IN LIMINE TO EXCLUDE EVIDENCE WITH RESPECT TO PREFILED
TESTIMONIES AND EXHIBITS OF JANE AND HEIDI FITZGERALD
AND SCOTT MCLANE

NOW COMES Georgia Mountain Community Wind, LLC (“Petitioner”), and pursuant to Public Service Board (“Board”) Rule 2.216(C), hereby objects to and moves to exclude certain portions of the January 12, 2011 testimonies and exhibits submitted by Jane and Heidi FitzGerald (“FitzGeralds”) and Scott McLane (sometimes referred to collectively herein as the “Landowners”). In support hereof, Petitioner submits the following Memorandum of Law.

MEMORANDUM OF LAW

I. Standard of Review

In determining whether evidence should be admitted over an objection in a contested case, the Board must follow the requirements of Section 810 of the Vermont Administrative Procedures Act and the rules of evidence as applied in civil cases in the superior courts of this

state (the Vermont Rules of Evidence (“V.R.E.”). *See* 3 V.S.A. § 810; Board Rule 2.216(A); *In re Cent. Vermont Pub. Serv. Corp.*, 141 Vt. 284, 292 (1982).¹

The Landowners’ testimony and exhibits challenged by the Petitioner, identified in the following section of this Motion, is objectionable and should be excluded on at least four grounds: (1) it is not based upon the personal knowledge of the witnesses as required by V.R.E. 602; (2) it constitutes inadmissible hearsay evidence under V.R.E. 802; (3) it constitutes inadmissible opinion testimony by lay persons based upon inadmissible hearsay evidence, contrary to V.R.E. 701–703; and (4) it is inadmissible under V.R.E. 403 because its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the Board.

The hearsay rule of evidence, V.R.E. 802, operates to exclude—subject to certain enumerated exceptions—out of court oral or written statements offered to prove the truth of the matter asserted. V.R.E. 801, 802. This rule therefore operates to exclude both testimony and documents (exhibits) that constitute hearsay.

Importantly, the rules of evidence distinguish between and apply different standards to admission of testimony by *experts* and testimony of *lay witnesses*. Although hearsay itself is inadmissible, the rules allow an *expert witness* to provide opinion testimony founded upon inadmissible hearsay information. *See* V.R.E. 702–703; Docket No. 7508, Order of 2/2/10 at 5. Under V.R.E. 701, however, this flexibility does not extend to *lay witness* testimony, which may not be founded upon hearsay. Specifically, V.R.E. 701 provides in pertinent part:

If the witness is not testifying as an expert, his testimony in the form of opinions or inferences is limited to those opinions or inferences which are (a) rationally based on the perception of the

¹ Section 810(1) of the APA requires that the Board *shall follow* the Vermont Rules of Evidence, unless the evidence is “necessary to ascertain facts not reasonably susceptible to proof” and is “of a type commonly relied upon by reasonably prudent men in the conduct of their affairs.” 3 V.S.A. § 810

witness and (b) helpful to a clear understanding of his testimony or the determination of the fact in issue

V.R.E. 701. Another area where the rules differ between expert and lay witnesses, is with respect to the requirement of personal knowledge or personal perceptions of the witness. V.R.E. 602 provides in pertinent part that “[t]he testimony of a witness may be excluded or stricken unless evidence is introduced sufficient to support a finding that he has personal knowledge of the matter.” V.R.E. 602. However, “[t]his rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses.” *Id.* So, as with opinions by experts founded upon inadmissible hearsay, V.R.E. 602 and 703 operate to allow opinion testimony by expert witnesses founded upon facts that are not based upon the personal knowledge of the expert.

In summary, unlike an expert witness, the testimony of a lay witness (1) is limited to his/her personal knowledge, (2) may offer opinions, but only if rationally based on the perception of the witness and would be helpful to a clear understanding of his/her testimony or the determination of the fact in issue, and (3) may not rely upon hearsay. V.R.E. 602; V.R.E. 701 Reporter’s Notes, *citing* V.R.E. 702, 703.

V.R.E. 702 provides a two-part test for determining whether a witness qualifies as an expert: (1) the person must be qualified by knowledge, experience, or training on the subject as to which she will testify; and (2) the tribunal must find that the testimony will be helpful to the trier of fact. *Id.*

Finally, otherwise relevant and admissible evidence may be excluded under V.R.E. 403

if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

V.R.E. 403. *See Harrington v. Vt. Agency of Transport.*, 185 Vt. 617 (2009) (excluding evidence where it was marginally probative and quite confusing). Once the probative value of a piece of

evidence is found to be substantially outweighed by the danger of unfair prejudice or confusion, there is no other evidentiary rule that can operate to make the same evidence admissible. *United States v. Benavidez-Benavidez*, 217 F.3d 720, 725 (9th Cir. 2000).

II. Argument

A. Inadmissible Testimony and Exhibits Submitted by the FitzGerals

1. Page 3, lines 3–7: Petitioner moves to exclude the FitzGerals’ testimony on page 3, lines 3 (beginning with the words “these are”), through line 7.

The FitzGerals are not experts on wind energy, wind turbine siting, wind turbine risk assessment, or wind energy setbacks, and they have failed to qualify themselves as such. They must therefore be precluded from relying upon inadmissible hearsay in asserting an opinion, and must base any alleged fact testimony upon personal knowledge. *See* V.R.E. 602, 702–703, 802, discussed *supra*.

As lay witnesses, the FitzGerals have failed to lay a foundation establishing that they have any personal knowledge of siting standards or regulations in any other jurisdiction—or the considerations that went into establishing such standards, such that their testimony would be necessary or helpful to the Board. *See* V.R.E. 701; *see also State v. Lapham*, 135 Vt. 393 (1977) (excluding lay opinion as to sanity based upon observations of witness with no prior contact with subject because it “adds nothing” to jury’s deliberative process).

The referenced testimony also constitutes out-of-court statements offered for the truth of the matter asserted, and therefore is hearsay as defined in V.R.E. 801 and inadmissible under V.R.E. 802. V.R.E. 801, 802, 702. *See also* Docket No. 7508, Order of 2/2/10 at 4 (excluding exhibits offered by Dan and Tina FitzGerald as inadmissible hearsay). The cited text is hearsay because the testimony refers to statements of Mr. McLane and to exhibits offered by Mr.

McLane, for the truth of the matter asserted. This Board has consistently refused to admit into evidence a non-testifying expert's report when a party sought to introduce the evidence through a "conduit" witness. *E.g.*, Docket No. 6545, Order Re: Motion to Strike of 3/21/02 at 6–7 (striking testimony and accompanying exhibit where witness was "offering the opinions of others"). The Board's hearsay rulings carry more weight in this case where the conduit for the hearsay testimony is a lay witness. Thus, although a testifying expert may base his or her opinion on hearsay pursuant to V.R.E. 703, a lay witness may not. In fact, V.R.E. 701 specifically states that a lay witness may not base his or her opinion "on scientific, technical or other specialized knowledge within the scope of Rule 702." V.R.E. 701.

2. Page 3, Lines 8–13 and Exh. J. FitzGerald Supp. JF-1: Same basis for exclusion as set forth in 1, above. The newspaper article included as Exhibit J. FitzGerald Supp. JF-1, and discussed in testimony page 3, lines 8–13, is from a weblink: "Catskill Mountain News.com." Exh. J. FitzGerald Supp. JF-1. The testimony fails to offer any foundation for the exhibit or statements made therein. The exhibit and recited testimony are hearsay or impermissible lay opinion evidence founded upon hearsay. They constitute out-of-court statements offered for the truth of the matter asserted, and therefore are hearsay as defined in V.R.E. 801 and inadmissible under V.R.E. 802. V.R.E. 801, 802, 702; *see also* Docket No. 7508, Order of 2/2/10 at 4 (excluding exhibits offered by Dan and Tina FitzGerald as inadmissible hearsay). As lay witnesses, the FitzGeralds may not rely upon hearsay and, moreover, have failed to lay a foundation establishing that they have any personal knowledge of any facts discussed in this article such that their testimony would be necessary or helpful to the Board. *See* V.R.E. 701 (excluding opinion testimony by a lay witness unless it is rationally based upon her own perception and helpful to trier of fact).

3. Page 3, Lines 14–18 and Exh. J. FitzGerald Supp. JF-2: Same basis for exclusion as set forth in 1, above. The testimony references page 16 of a handout reprinted in Exhibit J. FitzGerald Supp. JF-2, and asserts, based upon this page reference, that GE recommends a setback distance of 1.5 X (hub height + rotor diameter) from property lines. The exhibit and testimony constitute out-of-court statements offered for the truth of the matter asserted, and therefore are hearsay as defined in V.R.E. 801 and inadmissible under V.R.E. 802. V.R.E. 801, 802, 702. As lay witnesses, the FitzGeralds have failed to lay a foundation establishing that they have any personal knowledge of siting recommendations for GE, such that their testimony would be necessary or helpful to the Board. *See* V.R.E. 701 (excluding opinion testimony by a lay witness unless it is rationally based upon her own perception and helpful to trier of fact).

Moreover, the reference to page 16 of the GE handout is misleading, prejudicial, will cause confusion, and it should be excluded because these considerations outweigh its probative value. V.R.E. 403; *Harrington v. Vt. Agency of Transport.*, 185 Vt. 617 (2009) (excluding evidence where it was marginally probative and quite confusing). The referenced page 16 of the handout is a powerpoint picture of a cover page from a GE 2009 document, entitled “Setback Considerations for Wind Turbine Siting.” *See* Attachment A to this Motion. This GE Setback document DOES NOT, as the FitzGerald’s claim, recommend a 1.5 X (hub height + rotor diameter) setback distance from property boundaries. Instead, as clearly set forth at page 5 of this document, GE recommends a setback of only ½ the rotor diameter for property boundaries in remote locations; there is no other property boundary setback recommendation. The testimony and exhibit are therefore misleading and confusing and, in addition to the hearsay

objection, Petitioner contends that the probative value of these statements (if any) is substantially outweighed by the prejudicial effect and confusion that its admission would generate.

B. Inadmissible McLane Testimony and Exhibits

1. McLane Testimony at page 3, Line 1 to end, and Exhibits SM-1 through SM-115: The entirety of Mr. McLane's testimony beginning at page 3, is to describe and offer opinions as to the existence and substantive content of ordinances and regulatory materials that he found from weblinks from a DOE website related to wind energy. *See* McLane pf. at 3, lines 9–15. The documents he found are included as his Exhibits SM-2 through SM-115; Exhibit SM-1 is Mr. McLane's summary of the alleged content of these documents.

Exhibits SM-2 through SM-115 are clearly being offered for the truth of the matter asserted and therefore constitute inadmissible hearsay. The opinions of Mr. McLane regarding these exhibits, as well as his summary of these documents set forth in Exhibit SM-1, are based solely upon this inadmissible hearsay and as such are inadmissible under V.R.E. 702. Mr. McLane opines that the documents he downloaded and reprinted as his Exhibits SM-2 through SM-115 “demonstrate[] that most jurisdictions require property line setbacks of between 1.1 and 1.5 times the total height of the turbine.” McLane pf. at 5, lines 5–7. He further offers broad, generalized opinions based upon these documents in the following paragraphs. On pages 6–8, he offers opinions as to permitting requirements in Ohio, Minnesota, Oregon, Wisconsin, North and South Dakota, and Maine. His statements from these documents, his characterization of the documents, as well as the documents themselves, are hearsay or non-expert opinions based upon hearsay, and must be excluded pursuant to V.R.E. 701–703, and 802.

Mr. McLane is not qualified as an *expert* on wind turbines, wind energy siting, risk assessment or siting, simply because he read and downloaded over 115 documents from

weblinks to a DOE website. The testimony fails to offer a foundation establishing Mr. McLane's expertise, and he does not in fact possess any such expertise. Mr. McLane has not offered, nor does he possess, any expertise in land use regulation or permitting requirements for wind farms, in this or any jurisdiction. In fact, his earlier discovery response in these proceedings admits that: "Scott and Melodie McLane are homeowners trying to protect the quality of their lives. Their professional resumes are not a reflection of their 'expertise' on any aspect of this project." A.PET:McLane.1-5 (Attachment B to this Motion).

Moreover, as this Board held when it excluded other weblink documents from this proceeding: "The information contained on a website can change over time, and if a weblink were allowed into the record now, there is no guarantee that the information referenced in the weblink would be the same in the future." Docket No. 7508, Order of 2/2/10 at 3 (excluding weblinks and excerpts from web pages). We do not know in this case, for example, whether the DOE website or the weblinks used by Mr. McLane to download these exhibits have changed, or if the links reflect the most current positions of the municipalities and agencies cited. Mr. McLane has failed to establish that he has personal knowledge of the exhibits.

Finally, the testimony and exhibits should be excluded as confusing and prejudicial. For example, in his testimony summarizing the status of agency regulation on setback in New Hampshire, Mr. McLane asserts at page 9, lines 10-14, that the New Hampshire Site Evaluation Committee "has endorsed property line setbacks of 1.1 times the total height as being consistent with industry standards." He then cites to his Exhibits SM-100 and 102 (N.H. Site Evaluation Committee decisions) for support. However, a review of these exhibits evidences that Mr. McLane mischaracterized the content of these rulings. Exhibit SM-100 is a July 15, 2009 order granting approval of the Granite Reliable Wind project siting. There is no setback condition

stated in the order. Rather, at page 57, the order provides that the developer must work with Coos County to prepare a safety and access plan providing for, among other things, gate access protocols and methods to discourage persons coming within 1,300 feet of the turbines. No setback distance is required. *See* Exh. SM-100 at 57.

Exhibit SM-102 is an earlier 2007 Siting Committee order granting a certificate for the Lemster Wind project. There, the Site Evaluation Committee recited the standard *the applicant had proposed* (1.1 times tower height). *See* Exh. 102 at 39. The final order recited not only this fact, but also settlement agreements relating to setback entered into between the developer, the town, and public counsel. *See id.* at 40, 13–14. Had the Siting Committee “endorsed” a 1.1 times turbine height standard, it certainly would have applied that same standard two years later when it certified the Granite Reliable project (which it did not).

Another example of the lack of expertise to analyze these documents, is evidenced by Mr. McLane’s representation of the Wisconsin Public Service Commission (“PSC”) Rules (Exhibit SM-87). At page 7, lines 10–13, Mr. McLane cites to Exhibit SM-87, which he states requires a setback of 1.1 times the total turbine height. However, a reading of that exhibit makes it clear that Mr. McLane misstates the PSC Rule. *See* Exhibit SM-87 at 7–9. Specifically, PSC 128.10(4) establishes mandatory standards for wind energy siting with respect to two matters only: (1) political subdivision criteria regarding wind turbine type (PSC 128.13(2)); and (2) decommissioning (PSC 128.19). *See* Exh. SM-87 at 7. Setback distance is NOT one of the mandatory standards. *See id.* Maximum allowed setback distances are set forth in PSC 128.13(1). Under PSC 128.10, if a political subdivision does not establish a wind energy ordinance, the PSC Rule does not apply. PSC 128.10(3), at Exh. SM-87 at 8. Moreover, the PSC Rule permits political subdivisions to establish less restrictive, but not more restrictive

standards than the PSC Rule. *See* PSB 128.10(1), (2), at Exhibit SM-87 at 7–8. In short, contrary to Mr. McLane’s inaccurate testimony, the PSC Rules set a **maximum** setback that may be set by a municipality, but is not required.

Mr. McLane’s assertion at page 7, lines 10–11, that these rules “preempt local regulation of wind energy siting,” is also inaccurate and misleading. These inaccurate and misleading statements in testimony not only have no probative value, they would be highly prejudicial and confusing and would not assist this Board.

With respect to Maine, Mr. McLane asserts at page 8, line 17 to page 9, line 8, that the Maine Department of Environmental Protection has “established” a recommended safe property line setback of 1.5 times total height. There is no citation or foundation for this assertion. The exhibit offered by Mr. McLane, Exhibit SM-27 (Maine Model Ordinance), does not support his contention. To the contrary, it begins with an express legal disclaimer, stating that the Model Ordinance is to provide Maine municipalities with information, making it clear that setback distances are not a “recommendation.” *See* Exh. SM-27 at 1. Further, as to setback, the Model Ordinance expressly carves out an exception to setback if there is “evidence, such as operating protocols, safety programs, or recommendations from the manufacturer or a licensed professional engineer with appropriate expertise with Wind Turbines, that demonstrates that the reduced setback proposed by the Applicant is appropriate.” Maine Model Ordinance at 12.1, Exh. SM-27 at 15–16. Mr. McLane’s failure to accurately represent the Model Ordinance is misleading and, if admitted, will cause confusion and be highly prejudicial to Petitioner.

III. Conclusion

For the reasons stated above, the Board should exclude the testimony and documents listed above on the grounds that (1) it is hearsay; (2) it is impermissible lay opinion evidence; (3)

no foundation for, or authentication of, the evidence has been provided; and (4) its probative value, if any, is substantially outweighed by the confusion and prejudicial effect it would have.

IV. Request for Relief

For all of the reasons state herein, Petitioner respectfully requests the Board to grant the relief requested herein and exclude the aforementioned evidence.

DATED at Burlington, Vermont, this 9th day of February, 2011

Respectfully submitted,

Georgia Mountain Community Wind, LLC

By: 

Kimberly K. Hayden, Esq.

Kane H. Smart, Esq.

Downs Rachlin Martin PLLC

199 Main Street, P.O. Box 190

Burlington, VT 05402-0190

Tel: (802) 863-2375

Fax: (802) 862-7512

4124141

GE Energy

GE Wind

Setback Considerations For Wind Turbine Siting



GE imagination at work

CHANGE LIST

Document	Rev.	Release Date (y/m/d)	Affected Pages	Change	Author
Setback Considerations For Wind Turbine Siting	00	09/07/02	All	Original Issue	Parker Powell
Setback Considerations For Wind Turbine Siting	01	09/07/27	5	Clarification	Parker Powell

GE Energy

TABLE of CONTENTS

CHANGE LIST	2
INTRODUCTION	4
ICE SHEDDING AND ICE THROW	4
SET BACK CONSIDERATIONS	5

1.1.1.1.2 CONFIDENTIAL - Proprietary Information. DO NOT COPY without written consent from GE Energy.

1.1.1.1.3 © 2009 GE Energy. All rights reserved

Page	3 / 6
Document	Setback Considerations For Wind Turbine Siting
Originator	Parker Powell
Revision	01

INTRODUCTION

This document is intended to provide recommended setback guidelines with respect to the siting of wind turbines. Such guidelines take into consideration possible safety risks introduced by ice throw and other hazards from wind turbines. The guidance is general in nature, and is based on the published advice of recognized industry associations. Local codes and other factors may dictate setbacks greater than the recommendations in this document. It is ultimately the responsibility of the owner and the developer to determine whether wind turbines should be installed in a particular site. A prospective wind developer is encouraged to seek the advice of qualified professionals for siting decisions.

ICE SHEDDING and ICE THROW

As with any man-made structure, wind turbines can accumulate ice under certain atmospheric conditions.

A wind turbine may shed accumulated ice due to both gravity and mechanical forces of the rotating blades.

Recognized industry practices, suggest the following actions be considered when siting turbines in order to mitigate risk resulting from ice shedding and ice throw events:

Physical and visual warnings: Place fences and warning signs as appropriate for the protection of site personnel and the public.

Wind turbine deactivation: Remotely switch off the turbine when site personnel detect ice accumulation. Additionally, GE Wind turbine controllers can shut down or curtail the unit based on certain criteria programmed in the wind turbine controller.

Operator Safety: Restrict site personnel access to wind turbines while ice remains on the turbine structure. If site personnel absolutely must access a turbine with ice accumulation, safety precautions should include but are not limited to remotely shutting down the turbine, yawing the turbine to position the rotor on the side opposite from the tower door, parking vehicles at a safe distance from the tower, and restarting the turbine remotely when work is complete. As always, standard personnel protective gear should be worn.

SET BACK CONSIDERATIONS

Set back considerations depend on many factors such as population density, road usage frequency, land availability, and proximity to other publicly accessed areas and buildings.

Ice shedding/ice throw, and other hazards can create risk in the vicinity of the wind turbine park. To mitigate these hazards GE recommends the following guidelines presented in table 1.

Table 1: Setback Recommendations

Setback Distance	Objects of concern within the setback distance
If icing is likely at the wind turbine site: 1.5 x (Hub Height + Rotor Diameter)	Public use areas Residences Office buildings Public buildings Parking lots Public roads (more than lightly traveled) Railroads
All turbine sites: 1.1 x Tip Height ¹	Public use areas Residences Office Buildings Public Buildings Parking lots Public roads (more than lightly traveled) Railroads Sensitive above ground services ²
All turbine sites: 1.1 x Blade Length ³	Remote boundaries to property not owned by wind farm participants ⁴ No occupied structures allowed.

¹ The maximum height of any blade tip when the blade is straight up (hub height + ½ rotor diameter).

² Services that if damaged could result in significant hazard to people or the environment or extended loss of services to a significant population.

³ Use ½ rotor diameter to approximate Blade Length for this calculation.

⁴ Property boundaries to vacant areas where there is a remote chance of any future development or inhabitation during the life of the wind farm.

GE recommends using the generally applicable guidelines contained in table 1. Objects of concern within the recommended setback distance may not create significant safety risk, but warrant further analysis. The customer should perform its own safety review of the proposed turbine location(s). In addition, if the location of a particular wind turbine does not meet the guidelines, customers are requested to provide the information listed in Table 2 so that GE can complete a more detailed safety review of the proposed turbine location(s).

GE Energy

Table 2: Data Typically Required for Safety Review

Condition	Data Required
If icing is likely at the wind turbine site	Annual number of icing days
For winter season	Annual number of days with snow on the ground
Residences	Number of residences within recommended setback distance.
For industrial buildings (warehouse / shop)	Plot of bldg vs. turbine(s) Average number of persons in area during shift Number of work shifts per week
For open industrial areas (storage / parking lot)	Plot of area vs. turbine(s) Average number of persons in area during shift Number of shifts per week
For sports / assembly areas	Plot of area vs. turbine(s) Average number of persons in area per day Average number of hours occupied per day Number of days area occupied per week If area covered, what type of cover
For roads / waterways	Plot of road / waterway vs. turbine(s) Average number of vehicles per day Average number of persons per vehicle Type of road (residential, country, # of lanes, etc.)
For paths / trails (walk, hike, run, bike, ski)	Plot of paths / trails vs. turbine(s) Average number # of persons per day by type of presence (walk, hike, etc.) Flat or uneven / hilly terrain

Q.PET:McLane.1-5 Produce a copy of a current resume for both Scott and Melodie McLane.

A.PET:McLane.1-5 Objection on the basis that the question is irrelevant and not likely to lead to the discovery of admissible evidence. Without waiving the objection, Scott and Melodie McLane respond as follows: Scott and Melodie McLane are homeowners trying to protect the quality of their lives. Their professional resumes are not a reflection of their "expertise" on any aspect of this project.