



STATE OF MAINE  
DEPARTMENT OF CONSERVATION  
MAINE LAND USE REGULATION COMMISSION  
22 STATE HOUSE STATION  
AUGUSTA, MAINE  
04333-0022

PAUL RICHARD LEPAGE  
GOVERNOR

WILLIAM H. BEARDSLEY  
COMMISSIONER

**Fifteenth Procedural Order**

**In the Matter of  
Development Permit DP 4889  
Champlain Wind, LLC.  
Bowers Wind Project  
December 12, 2011**

**To:** Parties  
Neil Kiely (Applicant)  
Juliet Brown, Esq. (Counsel for Applicant)  
Sean Mahoney, Conservation Law Foundation  
Kevin Gurall, PPDLW  
David Corrigan  
Gordon Mott

**cc:** LURC Commissioners  
Amy Mills, Maine Assistant AG  
Catherine Carroll, LURC Director  
Samantha Horn Olsen, LURC  
Frederick Todd, LURC

**From:** Gwen Hilton, Presiding Officer

**Subject:** Applicant's request to withdraw its application

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**I. Background**

The application for the Bowers Wind Project (Project) by Champlain Wind, LLC (Applicant), was accepted as complete for processing on March 14, 2011. According to 12 M.R.S.A § 685-B(2-C), the Commission must, with respect to wind energy development permit applications that are set for public hearing, return a decision within 270 days from the date the application is accepted as complete for processing – in this instance, by December 9, 2011. At the request of an applicant, however, the Commission may stop the processing time for a period of time agreeable to the Commission and an applicant – thus delaying the deadline for returning a decision for an agreeable period of time.

Following Public Hearing and Commission deliberation, the Commission directed its staff to prepare a decision document denying the application, and it indicated it would consider and adopt the document by vote at its December 7, 2011 meeting.

CATHERINE M. CARROLL, DIRECTOR

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On November 8, 2011, the Applicant filed a request to withdraw its application "for the purpose of reconfiguring the Project to address the concerns expressed by the Commission during deliberations and the guidance that has been developed during the pendency of this proceeding." In addition to the request to withdraw, the Applicant agreed to stop the processing time for the application as set by 12 M.R.S.A § 685-B(2-C), thereby extending the deadline for the Commission to issue a final decision on this Project through January 2012, thus allowing the Commission the opportunity to consider and rule on this request at its December meeting.

Pursuant to the Fourteenth Procedural Order (November 15, 2011), the Commission accepted written comment from the parties and the public regarding the Applicant's request to withdraw. And, the Commission provided the parties an opportunity to provide oral comment on the request to withdraw at its December 7, 2011 meeting.

At the December 7<sup>th</sup> meeting, after hearing comment from the Applicant and Intervenors concerning the Applicant's request to withdraw its application, the Commission voted to table the request for withdrawal until the April 6, 2012, Commission meeting.

## **II. Order.**

At the December 7<sup>th</sup> meeting the Applicant agreed to extend the decision deadline, and therefore the deadline for issuing a decision on this application is extended through May 15, 2012. The Commission will take up the previously requested denial decision document on Friday, May 4, 2012, as necessary.

By Friday, March 9, 2012, the Applicant must submit, to the Commission and the other parties, a written description of its plans for reconfiguring the Bowers Wind Project to address the concerns expressed by the Commission during this proceeding and at the Commission's deliberations on the visual impacts of this Project in September and October of 2011. The other parties to this proceeding and the public will have until Friday, March 23, 2012, to submit comments on the Applicant's March 9<sup>th</sup> filing.

On Friday, April 6, 2012, the Commission will consider the Applicant's request to withdraw the Bowers Wind Project application, that is, the request the Commission tabled at the December 7, 2011, meeting together with the filings received pursuant to this Order. The Applicant will be provided up to 10 minutes to address the Commission orally at the April 6<sup>th</sup> meeting and may, within the allocated 10 minutes, reserve time for rebuttal. Any other Intervenor in this proceeding may also request, no later than Friday, March 30, 2012, time at the April 6<sup>th</sup> meeting to address the Commission orally on the Applicant's request to withdraw and plans for reconfiguring. The Chair will allocate at her discretion up to 10 minutes for each requesting party.

The Chair notes that the Applicant's required March 9<sup>th</sup> filing is neither an application nor an amended application. Rather, the purpose of the Applicant's filing, together with any comments thereon received from the Intervenors and public, is to enable the Commission to decide whether, based upon its Title 12 authority enabling legislation and in keeping with considerations of administrative fair play, a withdrawal is appropriate under the facts and circumstances of this proceeding.

On Friday, May 4, 2012, the Commission will consider, as necessary, the draft decision to deny the project that the staff was directed to prepare at the conclusion of the October 19, 2011, deliberations.

#### **IV. Authority and Reservations**

This procedural order is issued by the Presiding Officer pursuant to LURC Chapter 5, *Rules for the Conduct of Public Hearings*. All objections to matters contained herein should be timely filed in writing with the Commission but are not to be further argued except by leave of the Presiding Officer. All rulings and objections will be noted in the record. The Presiding Officer may amend this order at any time.

Questions regarding this Order or rulings of the Presiding Officer should be directed to Catherine Carroll, the Commission's Director, or Fred Todd, at the Commission's office in Augusta. No ex parte communication may occur with the Presiding Officer or any other Commission member.

DATED AT AUGUSTA, MAINE THIS 12th DAY OF DECEMBER, 2011



By: \_\_\_\_\_  
Gwen Hilton, Presiding Officer