

## TANGIBLE BENEFITS

### A. REVIEW CRITERIA (selected passages)

#### 12MRSA §685-B

**4-B. Special provisions; wind energy development or project.** In the case of a wind energy development, as defined in Title 35-A, section 3451, subsection 11, with a generating capacity greater than 100 kilowatts, or a community-based offshore wind energy project, the developer must demonstrate, in addition to requirements under subsection 4, that the proposed generating facilities, as defined in Title 35-A, section 3451, subsection 5:

.....

D. Will provide significant tangible benefits, as defined in Title 35-A, section 3451, subsection 10, within the State, as provided in Title 35-A, section 3454, if the development is an expedited wind energy development, as defined in Title 35-A, section 3451, subsection 4.

#### 35-A MRSA §3451. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

**1-B. Community benefit agreement.** "Community benefit agreement" means an agreement between the developer of an expedited wind energy development and a host community that involves payments by the developer to the host community to be utilized for public purposes, including, but not limited to, for property tax reductions, economic development projects, land and natural resource conservation, tourism promotion or reduction of energy costs, and that specifies in writing:

- A. The value of any lump sum payments made by the developer to the host community; and
- B. Any payment schedule and associated terms and conditions for payments to be made over time by the developer to the host community.

**1-C. Community benefits package.** "Community benefits package" means the aggregate collection of tangible benefits resulting from any of the following:

- A. Payments, not including property tax payments, to the host community or communities, including, but not limited to, payments under community benefit agreements;
- B. Payments that reduce energy costs in the host community or communities; and
- C. Any donations for land or natural resource conservation.

**5. Generating facilities.** "Generating facilities" means wind turbines and towers and transmission lines, not including generator lead lines that are immediately associated with the wind turbines.

**35-A MRSA §3451. DEFINITIONS (CONTINUED)**

**7. Host community.** "Host community" means:

A. The following entities:

.....

(2) If the generating facilities of an expedited wind energy development are located in a township, the county in which those facilities are located;

..... and

B. When the generating facilities of an expedited wind energy development are located within the State's unorganized or deorganized areas and the developer selects a municipality; plantation; township; Passamaquoddy Indian territory, as defined in Title 30, section 6203, subsection 6; Penobscot Indian territory, as defined in Title 30, section 6203, subsection 9; or Qualifying Band Trust Land proximate to the location of the generating facilities for the purpose of providing specific tangible benefits:

(1) In the case of a municipality or plantation that is selected, the municipality or plantation;

(2) In the case of a township that is selected, the county in which that township is located;

.....

An expedited wind energy development may have multiple host communities.

**10. Tangible benefits.** "Tangible benefits" means environmental or economic improvements or benefits to residents of this State attributable to the construction, operation and maintenance of an expedited wind energy development, including but not limited to: property tax payments resulting from the development; other payments to a host community, including, but not limited to, payments under a community benefit agreement; construction-related employment; local purchase of materials; employment in operations and maintenance; reduced property taxes; reduced electrical rates; land or natural resource conservation; performance of construction, operations and maintenance activities by trained, qualified and licensed workers in accordance with Title 32, chapter 17 and other applicable laws; or other comparable benefits, with particular attention to assurance of such benefits to the host community or communities to the extent practicable and affected neighboring communities.

**35-A MRSA §3454. DETERMINATION OF TANGIBLE BENEFITS; REQUIREMENTS**

In making findings pursuant to Title 12, section 685-B, subsection 4 or Title 38, section 484, subsection 3, the primary siting authority shall presume that an expedited wind energy development provides energy and emissions-related benefits described in section 3402 and shall make additional findings regarding other tangible benefits provided by the development. The Department of Labor, the Executive Department, State Planning Office and the Public Utilities Commission shall provide review comments if requested by the primary siting authority.

**1. Documentation.** As part of any permit application for an expedited wind energy development, the applicant shall include the following information regarding tangible benefits, except that the applicant may submit the information required under paragraph D as an addendum to the permit application during the period in which the application is pending:

- A. Estimated jobs to be created statewide and in the host community or communities, as a result of construction, maintenance and operations of the project;
- B. Estimated annual generation of wind energy;
- C. Projected property tax payments;
- D. A description of the community benefits package, including but not limited to community benefit agreement payments, to be provided in accordance with the requirements of subsection 2; and
- E. Any other tangible benefits to be provided by the project.

**2. Community benefits package requirement.** Except as provided in subsection 3, to demonstrate that an expedited wind energy development provides significant tangible benefits as required in Title 12, section 685-B, subsection 4-B and Title 38, section 484, subsection 10, the applicant for an expedited wind energy development is required to establish a community benefits package valued at no less than \$4,000 per year per wind turbine included in the expedited wind energy development, averaged over a 20-year period. This subsection does not affect the property tax obligations of an expedited wind energy development.

Nothing in this subsection limits a host community's authority to require an expedited wind energy development to enter into a community benefit agreement and to fulfill its property tax obligations.

**4. Community benefit agreement payments to counties.** When generating facilities of an expedited wind energy development are located within an unorganized or deorganized area other than within a plantation, community benefit agreement payments provided to the county as the host community in accordance with this section may be used for projects and programs of public benefit located anywhere within that county.

## B. SUMMARY OF EVIDENCE AND ISSUES

At the time of the initial application, an outline of the community benefits package was proposed. That was supplemented throughout the application process, and the final result is shown in the table below.

Recipient	Type	Time Period	Amount	20-yr amount	Documentation
Hancock County	Contribution (based on MW rated capacity)	Annual	\$198,832/yr	\$3.98 m	Signed agreement
Hancock County	Space on tower for public safety communications equip.	Ongoing			Signed agreement requires– “good faith effort”
Eastbrook	Payment	Annual	\$20,000	\$400,000	Signed Agreement
Downeast Salmon Fed	Contribution for Narraguagas River Salmon habitat	One time	\$25,000	\$25,000	Letter of acceptance*
Downeast Salmon Fed (DSF)	Payment for water quality and public access – several water bodies	Annual	\$20,000	\$400,000	Letter of acceptance*
Total				\$4,805,000	
<b>Per turbine/yr</b>	<b>(19 turbines)</b>			<b>\$12, 645</b>	

\* Hancock County agreement makes provision for use of the DSF money if DSF is not able to fulfill the terms of the agreement.

The cornerstone of the applicant's proposed tangible benefits is the Community Benefit Agreement with Hancock County. The County and the applicant forwarded to LURC staff a copy of the executed Community Benefit Agreement with the County that was signed June 2, 2011. The conditions of this agreement are binding for 20 years under the terms of the agreement, and it may be renewable under certain circumstances. The initial 20-year total of annual contributions to County would be approximately \$3.98 million. The County agrees to use its Annual Contribution for public purposes, including but not limited to, property tax reductions, economic development projects, land and natural resource conservation, tourism promotion, or reduction of energy costs.

### TANGIBLE BENEFITS CITED BY THE APPLICANT, IN ADDITION TO THE COMMUNITY BENEFITS PACKAGE

#### Section 22.0 Tangible Benefits from the Development Permit Application:

##### 22.1 Economic Benefits (Summarized from the application by LURC Staff)

- 22.1.1 Local Landowner Benefits: The applicant states the landowner, Lakeville Shores, Inc., will receive annual lease payments throughout the terms of the 25-year lease with an option to renew

the lease for an additional term. The lease revenue will supplement the revenue stream on this commercial forest parcel.

- 22.1.2 Increased Employment: The applicant noted that the 2009 annual median income level in Hancock County is \$32,468, which is below the state-wide level of \$36,803. The applicant states that the employment rate is seasonal; it is highest during the summer months, and unemployment peaks during the winter. Overall employment is decreasing in the County. With regard to the Stetson Wind Project, the applicant noted that, of the \$65 million spent for construction, engineering, and development, \$50 million was spent on Maine businesses directly. Exhibit 22 of the application contains graphs and additional information regarding this. Although not quantified, the applicant states additional economic results occur from the ripple effect of the contractors spending money locally on food, lodging, materials, etc.
- 22.1.3 Reduced Local Property Taxes: The applicant worked out a Community Benefit Package after the application was filed, which is described above. The company is still in negotiations with the Hancock County Commissioners regarding a Tax Incremental Financing (TIF) agreement for the project. The applicant estimates the project “will add approximately \$69 million of new property tax value to the unorganized territory of Hancock County, resulting in an estimated annual average tax payment of approximately \$342,343 dollars (averaged over a 20-year period) adjusted by any credit enhancement agreement”.
- 22.1.4 Reduced Energy Price Volatility and 22.2 Environmental Benefits: The applicant advances a number of claims about energy and environmental benefits from the development which are also presumed under the Wind Energy Act.

### 22.3 Conclusion (Quoted in its entirety from the application.)

*‘The “environmental or economic improvements attributable to the construction, operation and maintenance of the (Bull Hill) project” constitutes a significant tangible benefit under the Wind Power Act. The collective impact of the construction-related employment, local purchase of material, employment in operations and maintenance, and direct payment to host communities through the Community Benefits Agreement provides significant tangible benefits to Hancock County and the State of Maine.’*

### Supplemental Materials to the Application that Document Tangible Benefits:

The applicant added supplemental materials to the application during the proceedings that kept staff informed of their efforts to develop the tangible benefits proposed in their development project application. This includes answers to requests for information from staff, questions raised by Commissioners during the Public Hearing, and copies of correspondence with the County, Town of Eastbrook, and the Downeast Salmon Federation.

- By letter dated April 13<sup>th</sup> the applicant responded to questions raised by LURC staff during the State agencies’ review of the application. These questions included, among others, a request for an update on the Tangible Benefits program and required documentation. It included a statement reiterating the agreement with the Downeast Salmon Federation that was in Exhibit 22 of the application. They also included a letter from Attorney Erik Stumpf, Esq., counsel to the Hancock County Commissioners, providing an update on the status of discussions related to the community benefit agreement. That letter confirmed that the applicant was in continuing negotiations with the

County to negotiate a Community Benefits agreement by participating in meetings with the attorney to draft an agreement that would be forwarded to the Commissioners.

- The pre-filed testimony from Matt Kerns of First Wind reiterated much of what was stated in the initial application and added additional information about the contribution of wind energy to the Maine economy. The conclusion of his statements summarized that “the Bull Hill Wind Project will result in immediate and direct benefits to the local and regional economy”. The following summarizes the new points made:
  - A recent study on analyzing the economic contributions of wind energy in Maine by Charles Colgan, PhD was included as an exhibit. Mr. Kerns noted that in that study it was concluded that “... wind power developments result in wages approximately \$182,000 per megawatt of installed capacity”.
  - Kern’s testimony states that the applicant predicts 3 to 8 full-time employees during the operational lifetime of the project (See also the applicant’s July 15<sup>th</sup> follow-up comment, below).
  - Construction related employment of the project will create approximately 850 jobs.
  - The Bull Hill Wind Project will result in construction-related wages totaling \$6.2 million.
  - Approximately \$69 million in new property tax value will be added to Hancock County, subject to adjustment by any TIF agreement.
  - According to the Maine Renewable Energy Association, “wind energy projects in Maine, totaling nearly \$950 million, already have brought more that \$378 million to Maine in job creation, wages, taxes, land conservation programs, and support for basic infrastructures such as ports, engineering and environmental firms, and transportation companies”.
- On June 15<sup>th</sup> the applicant provided responses to the Sixth Procedural Order, which included questions raised by the Commissioners and staff at the May 17<sup>th</sup> Public Hearing. This included a direct question about the number of on-going full-time employees, separate from periodic maintenance work, which would be hired by Blue Sky East for the operational phase of the project. The applicant responded, “Once operational, the Bull Hill Wind Project anticipates hiring three permanent, full-time employees to operate and maintain the facility. In addition, it is anticipated that five technicians employed by the manufacturer will be on-site for at the first three years of the Project.”

Comments or objections:

Objections were raised by members of the public, interested persons, and in the testimony of the intervenor questioning the overall economic and environmental benefits of grid-scale wind energy. There were arguments and rebuttal presented regarding the assumed benefits of grid-scale wind energy and potential effects on property values. For the materials submitted regarding these issues, please see the written

public hearing testimony of Eastbrook resident Stephan Nadzo summarizing his research and listed sources for the negative impact of wind farms on real estate values, the BSE Rebuttal to Public Comments on 6-7-11, by Verrill Dana Attorney Kelly Boden, with attached exhibits C, D, E discussing wind projects and property values, as well as the public comments in general in which individuals sometimes raised property values as an issue of concern

There were no objections raised by intervenors, interested persons, or members of the public to the community benefits agreements.

### **C. ANALYSIS AND RECOMMENDATION**

The proposal significantly exceeds the statutory minimum of \$4,000 per turbine per year for Community Benefit Packages. The County, the neighboring municipality, and a conservation organization are receiving benefits, and the terms of those agreements seem to be what the statute contemplates for appropriate types of benefits. Claims about assumed benefits are more difficult to evaluate because of competing claims, and in any event the Legislature has already made conclusive findings regarding the energy and emissions benefits attributable to wind energy development. The Commission's focus should be on the economic and environmental benefits arising out of this project and whether they meet the statutory definition of tangible benefits and the standard of "significant". The direct benefits are summarized in the table earlier in this section.

Staff recommends that the Commission conclude the tangible benefits requirement is satisfied.