

Cape commission challenges key permit for wind farm

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One day after a state board tentatively approved a "super permit" that encompasses nine state and local approvals needed to build 130 wind turbines in Nantucket Sound, the Cape Cod Commission has mounted a legal challenge.

On Friday the commission filed a motion claiming the Energy Facilities Siting Board — which is responsible for ensuring the state has a reliable energy source with minimal impact on the environment at the lowest possible cost — lacks the jurisdiction to overturn the commission's previous procedural denial of the project.

The motion also claims the siting board cannot nullify a county ordinance enacted by the Barnstable County Assembly of Delegates, and lacks the authority to review legislation enacted by a county legislature, according to documents obtained by the Times.

Paul Niedzwiecki, executive director of the Cape Cod Commission, told the Times on Thursday that it was "premature" at that point to challenge the siting board and the county land use agency was weighing its options.

The motion to dismiss was filed the next day, March 13.

The commission also filed a motion claiming that a public notice and notice of presumed hazard from the Federal Aviation Administration released in February, should be reviewed by the siting board before any final decision is made.

The FAA reports deal with the effect the turbines would have on navigable airspace and potential negative impacts on aerial radar.

These reports were released three months after the siting board held evidentiary hearings. However, the commission's motion calls for the inclusion and review of these matters.

"These risks are undoubtedly a public safety concern and must be considered ... in determining whether to issue a certificate for the project," according to the motion.