

CONNECTICUT SITING COUNCIL

IN RE:

THE UNITED ILLUMINATING COMPANY (UI) :
APPLICATION FOR A CERTIFICATE OF :
ENVIRONMENTAL COMPATIBILITY AND PUBLIC : DOCKET NO. 516
NEED FOR THE FAIRFIELD TO CONGRESS :
RAILROAD TRANSMISSION LINE 115-KV :
REBUILD PROJECT THAT CONSISTS OF THE :
RELOCATION AND REBUILD OF ITS EXISTING :
115-KILOVOLT (KV) ELECTRIC TRANSMISSION :
LINES FROM THE RAILROAD CATENARY :
STRUCTURES TO NEW STEEL MONOPOLE :
STRUCTURES AND RELATED MODIFICATIONS :
ALONG APPROXIMATELY 7.3 MILES OF THE :
CONNECTICUT DEPARTMENT OF :
TRANSPORTATION’S METRO-NORTH RAILROAD :
CORRIDOR BETWEEN STRUCTURE B648S :
LOCATED EAST OF SASCO CREEK IN FAIRFIELD :
AND UI’S CONGRESS STREET SUBSTATION IN :
BRIDGEPORT, AND THE REBUILD OF TWO :
EXISTING 115-KV TRANSMISSION LINES ALONG :
0.23 MILES OF EXISTING UI RIGHT-OF-WAY TO :
FACILITATE INTERCONNECTION OF THE :
REBUILT 115-KV ELECTRIC TRANSMISSION :
LINES AT UI’S EXISTING ASH CREEK, RESCO, :
PEQUONNOCK AND CONGRESS STREET : JANUARY 11, 2024
SUBSTATIONS TRAVERSING THE :
MUNICIPALITIES OF BRIDGEPORT AND :
FAIRFIELD, CONNECTICUT :

PROPOSED FINDINGS OF FACT OF THE SCNET INTERVENORS

Sasco Creek Neighbors Environmental Trust Incorporated, Stephen Ozyck, Andrea Ozyck, Karim Mahfouz, William Danylko, David Parker, 2190 Post Road LLC, Invest II, International Investors, Southport Congregational Church, Pequot Library Association, Trinity Episcopal Church and Sasquanaug Association for Southport Improvement, Inc. (collectively, the “SCNET Intervenors”), submit the following proposed findings of fact in this proceeding.

1. The SCNET Intervenors incorporate the Proposed Findings of Fact filed by the Town of Fairfield as if fully set forth herein.

I. **The Council's Proceeding was Fundamentally Unfair**

a. **UI's withholding of Evidence Violated the Intervenors' Rights to Fundamental Fairness**

2. UI objected to 22 of the SCNET Intervenors' initial 39 Interrogatories and Requests for Production. (UI Ex. 20, A-SCNET 1-1 through A-SCNET 1-39).
3. The Council did not review UI's objections on an interrogatory-by-interrogatory basis.
4. The Council did not exercise its right to review the contested documents and information under seal.
5. During the evidentiary hearing, UI's witness panel refused to provide the data relied upon by UI to calculate its cost estimates for the underground Project alternative. UI's panel stated that the requested information was "protected and proprietary" or "confidential and proprietary." (Tr. 11/16/23, p. 134-136).
6. UI did not provide any testimony or evidence to substantiate its claims that any of the withheld information, data and/or documentation was confidential, proprietary or otherwise exempt from disclosure.
7. The SCNET Intervenors filed a Motion to Compel Disclosure on November 14, 2023 and a subsequent Motion for Reconsideration on November 27, 2023.
8. The Council denied the SCNET Intervenors' Motion to Compel Disclosure on November 16, 2023 and its Motion for Reconsideration on November 28, 2023.

b. **The Council's decision to impose an arbitrary time limit on Cross-Examination violated the Intervenors' right to fundamental fairness.**

9. On December 8, 2023, four days prior to the final evidentiary hearing, the Council issued an order allotting "a total of **one hour** for cross examination by the other parties/intervenors to the proceedings and the Council."

10. The Council's order dated December 8, 2023 did not impose content-specific limitations.
11. The Council's order dated December 8, 2023 imposed time-specific limitations.
12. The SCNET Intervenors, the Town of Fairfield and the Grouped LLC Intervenors filed a joint Motion in Opposition to the Council's Order on December 11, 2023. On December 12, 2023, the Council voted to defer the joint Motion in Opposition.
13. The Council's time specific limitations had not been imposed on UI's witness panel.
14. The presentation of evidence by UI's witness panel occurred over the course of five (5) hearing days.
15. The undersigned counsel was precluded from exhausting relevant and material lines of questioning on cross-examination due to the Council's December 8, 2023 order. (Tr. 12/12/23, p. 235-36; Tr. 12/12/23, p. 239-40).

II. UI's Project will have significant adverse Environmental Impacts

16. Heritage Consultants prepared a Phase IA Cultural Resources Report (the "Phase IA Report") on behalf of UI. (UI App. Volume 1A, Appendix D).
17. The purpose of a Phase IA Report is to evaluate a project area's sensitivity for the presence of cultural and historic resources to guide field investigations and to identify project alternatives where appropriate. (Town Ex. 9, Pre-Filed Testimony of Wes Haynes, p. 5).
18. For a Phase IA Report, best practices require, at a minimum, thorough background research, a comprehensive literature review and preliminary fieldwork prior to completing the report. (Town Ex. 9, Pre-Filed Testimony of Wes Haynes, p. 5).

19. A completed Phase IA Report should contain an inventory and history of the resources located, or likely to be discovered, within the project area. (Town Ex. 9, Pre-Filed Testimony of Wes Haynes, p. 5).
20. The Phase IA Report did not identify or catalogue all of the relevant historic and cultural resources located in Southport, Fairfield and Bridgeport. (SCNET Ex. 17, Pre-Filed Testimony of David Scott Parker, p. 8).
21. The Phase IA Report identified twenty-one (21) NRHP-listed, SRHP-listed or locally-designated historic resources located in Southport and omitted one hundred and seventy-four (174) other applicable historic resources. (SCNET Ex. 17, Pre-Filed Testimony of David Scott Parker, p. 8).
22. Wes Haynes, a historic preservationist retained by the Town of Fairfield, reviewed UI's Phase IA Report and identified fourteen (14) omitted historical, architectural and archeological resources pertaining to Southport alone. (Town Ex. 9, Pre-Filed Testimony of Wes Haynes, Ex. B, p. 2-4).
23. David George, of Heritage Consultants, confirmed that he did not review the inventories cited by Mr. Haynes nor did he consult local universities, local museums, local historical societies or the Bridgeport or Fairfield Historic District Commissions prior to preparing UI's Phase IA Report. (Trans. 11/16/23 p. 34-35).
24. The Phase IA Report states that the significance of the Southport Historic District is based upon it having been "the center of trade and commerce in the town of Fairfield in the eighteenth and nineteenth centuries." (UI App. Vol. 1A, Appx. D, p. 10).
25. The NRHP nomination in 1971 for the Southport Historic District provided that "more shipping was owned in Southport in proportion to its size than in any port between

Boston and New York” in the early nineteenth century. (Town Ex. 9, Pre-Filed Testimony of Wes Haynes).

26. The Southport Historic District was “historically significant at the national level as an important port between Boston and the southern coast.” (Tr. 12/12/23, p. 222).
27. The Southport Historic District was nominated not only for its role in trade and commerce; the District’s concentration of Greek Revival and Victorian structures “retain exceptional integrity...compared to other National Register historic districts.” (Town Ex. 9, Pre-Filed Testimony of Wes Haynes, Ex. B, p. 5).
28. The iconic view of Southport from its historic harbor and its interrelationship to the “more than 150 buildings within the district” was noted as a major contributing factor in the Statement of Significance on the 1971 nomination of Southport to the NRHP, however, it was omitted from the Phase IA Report. (SCNET 17, Pre-Filed Testimony of David Parker, p. 10, Ex. S,T).
29. The Phase IA Report did not address the “unique aggregation” of nationally significant historic and cultural landmarks located within half a mile of, and impacted by, the Project. (Town Ex. 9, Pre-Filed Testimony of W. Haynes, Ex. B, p. 7).
30. The Project corridor is historically exceptional in that three National Historic Landmarks (“NHL”) are located within half a mile: the Birdcraft Sanctuary, located at 314 Unquowa Road, Fairfield, the Jonathan Sturges Cottage, located at 449 Mill Plain Road, Fairfield, and the Barnum Institute of Science and History, located at 820 Main Street, Bridgeport. (Town Ex. 9, Pre-Filed Testimony of W. Haynes, Ex. B, p. 7).

31. The Birdcraft Sanctuary is the oldest private songbird sanctuary in the United States and is listed in the NRHP and designated as a National Historic Landmark. (Town Ex. 9, Pre-Filed Testimony of W. Haynes, Ex. B, p. 7).
32. Within half a mile of the Project corridor, there are 647 properties locally listed or listed on the SRHP or NRHP in the City of Bridgeport, 130 properties locally listed or listed on the SRHP or NRHP in the Town of Fairfield, and 195 properties locally listed or listed on the SRHP or NRHP in the Village of Southport. (SCNET Ex. 17; Town Ex. 9; UI App. Vol. IA-Appx. D. (Table 1)).
33. The Phase IA Report omitted the Mary and Eliza Freeman Houses located at 352-54 and 358-60 Main Street in Bridgeport from its individual listing of NRHP and SRHP properties located within half a mile of the Project corridor. (Tr. 12/12/23, p. 244).
34. Built in 1848, the Freeman Houses are the oldest remaining homes in the State of Connecticut built by and for free people of color. (Tr. 12/12/23, p. 244).
35. Mr. Haynes testified that with regard to the Freeman Houses, these structures “are extremely rare...An estimated 2 to 3 percent of all properties on the National Register are associated with Black Americans. Any they’re even rarer in terms of properties that predate the Civil War...” (Tr. 12/12/23, p. 244).
36. In 2018, the Freeman Houses were recognized on the National Trust for Historic Preservation’s “List of the 11 Most Endangered Places in America.” As a result, the Freeman Houses received federal funding for their preservation and restoration in September 2023 and were saved from demolition. (SCNET Ex. 17, p. 11-12).
37. The Project proposes a one hundred and twenty-five foot (125’) tall steel monopole within three hundred and twenty feet (320’) of the Freeman Houses, and within the direct

viewshed, of the Freeman Houses. (SCNET Ex. 17, Pre-Filed Testimony of David Scott Parker).

38. The Project proposes a one hundred and twenty-five foot (125') tall steel monopole within the direct viewshed of the Freeman Houses. (SCNET Ex. 17, Pre-Filed Testimony of David Scott Parker).

39. Concerns regarding the sufficiency of UI's Phase IA report prompted the State Historic Preservation Office ("SHPO") to recommend that a decision of approval be postponed until additional information can be provided to allow the Council to make a more informed decision. (State Historic Preservation Office Comments, 11/17/23).

i. The Project will Result in Indirect and Direct Impacts to Historic and Cultural Resources

40. Findings of adverse visual impacts on historic and cultural resources resulting from UI's project were made by SHPO and confirmed by UI's witness panel. (See e.g., State Historic Preservation Office Comments, 11/17/23).

41. During the Council's evidentiary hearing, UI repeatedly asserted that the Project would result in "*indirect* impacts" only and "[t]he Project will not cause any direct impacts to above-ground historic resources." (See e.g., UI Ex. 21, A-SCNET 2-9 ("The Project will

42. David George testified that the project cannot have a direct impact on a historic resource unless the project is physically impairing a historic building. (Tr. 11/16/23, p. 59-60).

Pequot Library – 720 Pequot Avenue, Southport, CT

43. The Pequot Library is the "cultural heart of Southport and is important on a national level both for its exemplary manuscripts and document collections and architecturally as a pioneering example of a subsequently much emulated library architectural form." (Tr. 12/12/23, p. 99).

44. Completed in 1894, the Pequot Library was “designed in the Richardson Romanesque style by [the noted New York architect] Robert [H]. Robertson.” (Tr. 12/12/23, p. 99; see also SCNET Ex. 22, Pre-Filed Testimony of Stephanie J. Coakley, p. 3).
45. The Pequot Library is listed in the NRHP and SRHP and was recognized for its national significance and recorded at the highest level of documentation with measured drawings prepared by the National Park Service’s Historic American Building Survey in 1966-1979 and filed in the Library of Congress [HABS No. CONN-314].
46. The Pequot Library’s 2007 interior restoration project received a Historic Preservation Award from the Connecticut Trust for Historic Preservation. It additionally received the 2018 Connecticut Treasures Award, sponsored by the CT Chapter of the American Institute of Architects. (SCNET 22, Pre-Filed Testimony of Stephanie J. Coakley).
47. Since 2018, the Pequot Library has been in the process of seeking NHL status. (SCNET 22, Pre-Filed Testimony of Stephanie J. Coakley).
48. The Project necessitates a twenty-five foot to forty foot (25’-40’) permanent easement across the Pequot Library’s northern property boundary. UI also proposes installing a one hundred fifteen-foot (115’) steel monopole directly on the Library’s three-acre property. (UI App. Vol. 2 Project Mapping and Drawings).
49. The monopole will be approximately seventy-five feet (75’) above the Pequot Library’s iconic 125-year-old red terra cotta tile roof. (SCNET 22, Pre-Filed Testimony of Stephanie J. Coakley).
50. The taking of the permanent easement and the installation of the monopole on the Pequot Library property will require the removal of mature trees and landscaping, which provide

a buffer between the Library's grounds and the CTDOT-MNR corridor. (Exhibits O and P to David Scott Parker's Pre-Filed Testimony, SCNET Ex. 17).

51. Pequot Library's executive director, Stephanie J. Coakley, testified that the Project "will adversely affect the historic integrity, use and potential expanded use of Pequot Library's property" and "will result in the property no longer having the available land coverage for [the Library's] proposed renovation/expansion plan..." (SCNET Ex. 22, Pre-Filed Testimony of Stephanie J. Coakley, p. 4-5).

52. Ms. Coakley testified that the "towering industrial monopoles and transmission lines" are "[i]ncongruous to the park-like setting that we believe [the Library's] founders intentionally created" and "will impede [the Library's] ability to remain a serene and picturesque New England village Library." (SCNET Ex. 22, Pre-Filed Testimony of Stephanie J. Coakley, p. 4).

Bulkley-Alvord-Northrop Houses- 92- 170 Pequot Avenue, Southport, CT

53. The Bulkley-Alvord-Northrop Houses are a group of six historic residences built between 1810 and 1888. (SCNET Ex. 17).

54. One of the six Bulkley-Alvord-Northrop Houses at 170 Pequot Avenue, Southport, CT, is listed on the SRHP and all six are potentially eligible for and national designation and have been submitted for nomination to the NRHP under National Park Service Criterion A and C. (SCNET Ex. 17).

55. The Bulkley-Alvord-Northrop Houses are well-preserved examples of contemporary local architectural styles, namely, Federal, Greek Revival, and variations of the Queen Anne Style. (SCNET Ex. 17)

56. One of the Bulkley-Alvord-Northrop Houses at 92 Pequot Avenue, may be one of the oldest houses in Southport and its central block could predate the British burning of Fairfield in 1779. (SCNET Ex. 17).
57. The Project necessitates a twenty to forty foot (20'-40') permanent easement along the northern property boundaries of the Bulkley-Alvord-Northrop Houses. (UI App. Vol. 2, UI Project Mapping and Drawings).
58. The vegetative buffer shielding the historic residences from the CTDOT-MNR corridor will be removed and a steel monopole (P665S) will be installed within feet of the eastern property border of the Bulkley-Alvord-Northrop House located at 92 Pequot Avenue. (UI App. Vol. 2, UI Project Mapping and Drawings).

Trinity Episcopal Church- 651 Pequot Avenue, 288 Center Street and 678 Pequot Avenue, Southport and Southport Congregational Church- 524 Pequot Avenue, Southport.

59. Trinity Episcopal Church was founded in 1725. (SCNET Ex. 23, p. 2).
60. Trinity Episcopal Church's original church building was burned down during the British raid on Fairfield during the Revolutionary War, and its second church was built in its present location in 1856, but subsequently destroyed by a tornado in 1862. The current church building was erected on the foundation of its predecessor and dedicated on December 11, 1862. (SCNET Ex. 23, Pre-Filed Testimony of Harold V. Schmitz).
61. Trinity Episcopal Church's adjoining chapel was constructed in 1871. Both the church and chapel are listed on the NRHP and recognized as nationally significant by recording at the highest level of documentation with measured drawings prepared by the National Park Service's Historic American Buildings Survey and filed in the Library of Congress [HABS No. CONN-312]. (SCNET Ex. 23, p. 2).

62. Trinity Episcopal Church's Rectory, located at 678 Pequot Avenue, is similarly situated within the Southport Historic District, and is noted for its unique and remarkably well-preserved architecture. (SCNET Ex. 23, p. 2).
63. The District's 1971 nomination form lists the Trinity Episcopal Church Rectory as a contributing structure and acknowledges its "unique" design. It notes, "though built in the Greek Revival Style popular in the 1830's, [the Rectory] has five columns in front instead of four, and [has] matching pilasters against the exterior wall."
64. The UI project proposes the installation of a one hundred and five foot (105') tall steel monopole within feet of Trinity Episcopal Church's Rectory. (UI App. Vol. 2 Project Mapping and Drawings).
65. Southport Congregational Church was founded 1834 and its present stone church, located at 524 Pequot Avenue, Southport, was erected between 1874 and 1876 by prominent local architects. (SCNET Ex. 21, p 2).
66. Southport Congregation Church is part of the Southport Historic District and was also recognized individually as architecturally significant through additional photographic and historical documentation by the Historic American Buildings Survey of the National Park Service in 1979 [HABS No. CONN-311, Library of Congress].
67. UI's Phase IA Report did not identify either Trinity Episcopal Church or Southport Congregational Church and its parsonage. (SCNET Ex. 17).
68. The Project proposes a permanent easement along the northern boundaries of properties owned by both Trinity Episcopal Church and Southport Congregational Church at 524 Pequot Avenue, 678 Pequot Avenue and 288 Center Street in Southport, CT. (UI App. Vol. 2 Project Mapping and Drawings).

III. RLUIPA and Conn. Gen. Stat. § 52-571(b)

a. Southport Congregational Church

69. The Southport Congregational Church (“SCC”) was granted Intervenor status at the October 17, 2023 public hearing, and was combined with the Grouped Intervenors by the Council.
70. SCC is located at 524 Pequot Avenue in Southport. (SCNET Ex. 21, p 2).
71. SCC was erected in 1874-1875, and is recognized by the Library of Congress for its historic significance. (SCNET Ex. 21, p 2).
72. SCC is within the area designated as the Southport Historic District, which is listed on the National Register of Historic Places. (SCNET Ex. 21, p 4)
73. SCC currently has approximately 750 adult members, 180 children, and a weekday preschool with over 100 children. (SCNET Ex. 21, p. 2)
74. The proposed United Illuminating (“UI”) transmission line will adversely affect SCC’s religious experience and practices and its ability to fulfill its religious mission. (SCNET Ex. 21, p. 3-4)
75. The proposal will interfere with SCC’s operations, its economic health, and its ability to retain and grow its membership. (SCNET Ex. 21, p. 4)
76. UI’s proposal contemplates temporary construction and permanent easements for the placement of high voltage transmission lines over an area that SCC uses for multiple purposes. (Tr. 12/12/23 @ 114; SCNET Ex. 21 p. 3-4). UI estimates this permanent easement to be around 6,800 square feet. (Tr. 11/28/23 p. 154). The affected space (the “Multi-Use Area”) includes a parking lot, a playground, and a facilities building that has been used for church meetings, mission work (such as assembly of meals,

- clothing drives, and organizing school supplies for those in need) and storage of materials for church fund-raising activity. (SCNET Ex. 21 p. 3-4; Tr. p. 114).
77. SCC's Multi-Use Area has also been used for a variety of important church functions, including funeral overflow seating, confirmation classes, worship services, youth group activities, high school and middle school religious classes and events, men's and women's groups, mission-related activities such as providing food for the homeless, church picnics, and other religious, social, and community service events. (Tr. 12/12/23 p. 114-115).
78. SCC operates a preschool that generates substantial income comprising approximately 8% of SCC's annual budget. The preschool also furthers SCC's religious mission by promoting its values of faith, compassion, and community. Families whose children enroll in the preschool frequently are or become members of SCC. (SCNET Ex. 21, p. 5).
79. SCC's preschool is located about 200 feet from UI's proposed project area. (CSC Application Table 5-9). The UI proposal would place high-voltage transmission lines in close proximity to SCC's preschool and playground facilities. (SCNET Ex. 21, p. 5).
80. Parents of SCC's pre-school attendees have expressed concerns regarding the health and safety risks posed by the proposed transmission lines, and some have stated that they would not enroll their child in the preschool if UI's proposed transmission lines were suspended over the multi-use area, which includes the preschool. (Tr. 12/12/23 p. 113).

81. UI's proposal will irreparably harm SCC's ability to recruit and enroll students at the preschool. Enrollment will likely decline and there is a material risk that SCC would need to terminate the preschool program. (SCNET Ex. 21, p. 5).
82. SCC projects that if the preschool were to close, it would need to increase its endowment by more than \$3 million to replace the lost income from the preschool. (SCNET Ex. 21, p. 5-6).
83. SCC has grown its membership by an average of 3% annually over the last 25 years. It has increased its budget by an average of 5% annually during that period, reflecting corresponding growth in its ministry and mission outreach. (Tr. 12/12/23 p. 115-116).
84. The UI proposal would jeopardize SCC's ability to use its property consistent with its religious practices for the past 180 years, and the project would therefore impose a direct hinderance to its full and free religious exercise and expression. In addition, because the easement would reduce its buildable footprint by 6,800 square feet and prevent anticipated necessary expansion of SCC's facilities, it will block SCC's ability to continue to grow and freely operate as a religious institution. (Tr. 12/12/23 p. 116).
85. SCC members use the parking area and outside space abutting the railroad corridor to access the SCC seven days a week in support of a number of efforts critical to the SCC's economic, spiritual, and social well-being, including: weekday preschool; thrift shop activities; community organization meetings; clergy counseling sessions; weekday youth group meetings; bible study classes; church board meetings; weekend religious services, and weddings, funerals, and fundraising activities. (SCNET Ex. 21, p. 6).
86. UI's proposal to construct a 95' fenced construction area represents the majority of SCC's parking area abutting the railroad corridor. The loss of this parking capacity

would restrict SCC's ability to conduct ongoing religious and ministerial activities and impede its ability to grow new membership, which is integral to its spiritual mission.

(SCNET Ex. 21, p. 6).

87. SCC operates a thrift shop that generates material annual net income equal to that of its preschool, and upon which SCC depends for its annual operating budget. The thrift shop operates out of the rear basement of the main church with its entrance and exit facing the railroad corridor. The parking for patrons of the thrift shop exists in the proposed 35' easement zone contemplated by the UI project. (SCNET Ex. 21, p. 7).
88. The proposal would require that SCC curtail most, if not all, of its activities during construction periods, including weekday preschool drop off and pick up, and thrift shop activity would be restricted, if not possibly closed. (SCNET Ex. 21, p. 6-7).
89. During UI's multi-year construction phase, the proposed project would negatively affect traffic into and out of the thrift shop, which serves to introduce non-members to SCC's religious programs and which offers another important activity in which members can participate and work together in furtherance of SCC's mission. Reduced traffic into and out of the thrift shop would also negatively impact SCC's revenues and finances. (SCNET Ex. 21, p. 7).
90. UI's proposal to remove and clear-cut a broad swath of large growth trees, which provides a visual and acoustic barrier between the railroad corridor and SCC property, will have an adverse effect on the aesthetic integrity of SCC – an integral aspect of religious practice and worship. The experience of religious practice and worship depends not only on the aesthetics of the interior space, but on the exterior atmosphere as well. (SCNET Ex. 21, p. 4-5).

91. SCC has invested significant resources over decades in landscaping and tree cultivation, in order to mitigate the visual, noise, and pollution effects from the CT-DOT owned railroad corridor. UI's proposed removal of SCC's landscaping and tree mitigation barriers would directly expose SCC's religious facilities to the infrastructure of both the MTA railroad and the UI high voltage transmission line, which would irreparably impair its worship practices, harm its ability to maintain and grow its membership, and would threaten its future viability. (Whitmore PFT @ 7-8).
92. UI's proposal would adversely affect SCC's real property value and the historic integrity and religious character that it has worked to create over its nearly 200-year history. (SCNET Ex. 21, p. 8).
93. The negative impact on SCC's property value would extend to SCC's neighboring parsonage property located at 612 Pequot Avenue, Southport, CT. (SCNET Ex. 21, p. 8).

b. Trinity Episcopal Church

94. Trinity Episcopal Church ("Trinity") was granted Intervenor status at the October 17, 2023 evidentiary hearing, and was combined with the Grouped Intervenors by the Council.
95. Trinity's Church building and Chapel are located at 651 Pequot Avenue in Southport. (SCNET Ex. 23, p. 3).
96. Trinity is an Episcopal church with a parish of over 650 parishioners. (SCNET Ex. 23, 2)
97. Trinity provides a wide variety of religious, education, counseling, and social services to its parishioners and the community. (SCNET Ex. 23, 2).

98. Trinity hosts weekly youth groups, Sunday school, childcare, training for young choristers and cherub choir. However, its primary educational endeavor is its award-winning Trinity Parish Nursery School. There are approximately 130 children, ages 2 to 5+, enrolled in the nursery school. (Tr. 12/12/23 p. 118; SCNET Ex. 23, 2-3).
99. The proposed UI transmission line will adversely affect Trinity's religious exercise and practices and its ability to fulfill its religious mission. (SCNET Ex. 23)
100. Trinity was founded in 1725. Its original church building was burned down during the British raid on Fairfield during the Revolutionary War. (SCNET Ex. 23, p. 2).
101. Trinity's current church building was erected on the foundation of its predecessor and dedicated on December 11, 1862. (SCNET Ex. 23,p. 2-3).
102. Trinity's adjoining chapel was constructed in 1871. (SCNET Ex. 23, p. 3).
103. Both the Trinity Church and chapel are located within the Southport Historic District (SCNET 23, p. 3).
104. Both the Trinity Church and Chapel are listed on the NRHP. (SCNET 23, p. 3)
105. Both the Trinity Church and Chapel are recognized as nationally significant by recording at the highest level of documentation with measured drawings prepared by the National Park Service's Historic American Buildings Survey and filed in the Library of Congress [HABS No. CONN-312]. (SCNET Ex.23, p. 3).
106. In addition to providing religious services, the Trinity's church and chapel are also used for celebrating life's biggest moments such as for baptisms, confirmations, weddings and funerals. In the chapel (sanctuary) Trinity hosts community music concerts, private recitals and word-class concerts. (SCNET Ex. 23, p. 3).

107. Trinity owns two additional properties. Trinity's property located at 288 Center Street in Southport is used for parking for all church and pre-school related activities.
108. The Trinity Rectory is located at 678 Pequot Street in Southport. There is also a playground at 678 Pequot Street that is utilized by Trinity's pre-school students. (SCNET Ex. 23, p. 3).
109. UI proposes to take an easement approximately 25 feet in depth along the northern border of Trinity's property located at 678 Pequot Avenue. (SCNET Ex. 23, p. 3).
110. UI proposes to install a 105 foot tall steel monopole (P656S) in the northeastern corner of 678 Pequot Avenue. (SCNET Ex. 23, p. 3).
111. UI proposes to take an easement varying in width from 22 feet to 36 feet along the northern border of Trinity's property located at 288 Center Street. (SCNET ex. 23, p. 3).
112. UI proposes to install a 105 foot tall monopole approximately 55 feet from the northwest corner of Trinity's property located at 288 Center Street. (SCNET Ex. 23, p. 3).
113. UI Project will be near or directly in the area where Trinity's pre-school activities take place, including on property where the pre-school's playscape is located. (SCNET Ex. 23, p. 3).
114. Parents have expressed concern regarding the health and safety of their children enrolled in Trinity's pre-school program. (Tr. 12/12/23 p. 119-120).
115. Parents have expressed concerns and reservations about sending their children to Trinity's pre-school program while UI's construction activities are taking place. (Tr. 12/12/23 p. 119-120).

116. UI's proposal will irreparably harm Trinity's ability to recruit and enroll students at the preschool. Enrollment will likely decline and there is a material risk that Trinity would need to terminate the preschool program. (SCNET Ex. 23, p. 3-4).
117. Diminished enrollment or termination of Trinity's pre-school program would have disastrous impacts. Trinity would lose significant annual revenue which, in significant part, funds Trinity's religious operations, services and programming. The pre-school also furthers Trinity's overall mission. Families that enroll their children in the pre-school often become part of the parish. (SCNET Ex. 23, p. 3-4).
118. Declining enrollment or termination of the pre-school program will put Trinity "on a slope to closure." (Tr. 12/12/23 p. 120).
119. UI will be clear cutting significant mature landscaped screening from the area bordering the train tracks that currently buffers the parking lot area, rectory building, playscape and surrounding outdoor area that is used regularly used by the preschool. The removal of the mature landscape screening will take away the protection from the visual, noise and pollution effects from the nearby railroad corridor-- an integral aspect of religious practice and worship. The experience of religious practice and worship depends not only on the aesthetics of the interior space, but on the exterior atmosphere as well. (SCNET Ex. 23, p. 4).
120. UI is proposing to construct multiple poles on Trinity's properties so that the poles and transmission lines will loom over and/or around the Trinity properties, including the historically protected property. (SCNET Ex. 23, p. 4).
121. UI will effectively take away approximately two hundred (200) linear feet of parking area for a significant period. Trinity estimates that it will lose use of approximately

thirty (30) parking spaces. These parking spaces are necessary for the church's services, programming, pre-school and lease obligations to the Fairfield Parking Authority. Trinity has leased a portion of the parking area to the Fairfield Parking Authority since 1997. The income that Trinity receives from the Parking Authority lease is critical to its financial stability and the funding of its religious operations, services, programming and overall mission. (SCNET Ex. 23, p. 4).

122. Between the impact of UI's Project on Trinity's pre-school program and the anticipated loss of parking and parking associated revenue, Trinity projects a "significant loss of income amounting to over \$100,000 a year." (Tr. 12/12/23 p. 121).

123. UI's Application will irreparably infringe upon Trinity's right to own, rent and use land for worship and religious exercise. The application will substantially burden the exercise of religion by Trinity. (SCNET Ex. 23, p. 4).

124. Burying the Transmission line underground within the public right of way would eliminate the burden on Southport Congregational Church's and Trinity Episcopal Church's religious exercise. (Tr. 12/12/23 p. 197-198).

III. UI Significantly Underestimates the cost of acquiring Easement for its preferred overhead proposal.

125. UI estimates the total cost of its Project at approximately \$255 million, \$30 million of which is allocated to the cost of acquiring necessary easements. (UI Ex. 3, A-CSC-10; UI Ex. 23, A-Fairfield 16).

126. UI did not retain or consult with an appraiser to arrive at its \$30 million estimate.

127. UI stated that its cost of property acquisition estimate is based on a "high-level estimate per acre." (Tr. 7/25/23, p. 25).

128. To determine the cost of acquiring easement rights it is necessary to engage in a property-by-property analysis. The Town of Fairfield’s expert appraiser, Peter Vimini, MAI, confirmed that “the ordinary measure of damages is to determine the difference between the market value of the whole property as it lay before the taking or imposition of the easement and the market value of what remains of the property after the taking or the imposition of the easement.” (Town Ex. 5, Pre-Filed Testimony of P. Vimini).
129. UI did not consider any site-specific details that would be relevant to the cost of acquiring an easement, such as whether condemnation proceedings would be required or whether applicable zoning regulations would render certain properties nonconforming.
130. The actual cost of acquiring the easements required for the Project “is probably three to five times higher” than UI’s estimate.” Therefore, a more realistic cost estimate for the acquisition of UI’s easements is between ninety and one hundred and fifty million dollars (\$90,000,000 and \$150,000,000). (Tr. 12/12/23 p. 232-233).

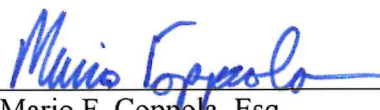
IV. Additional Environmental Concerns

131. UI’s submissions lack the detail and specificity required for the Siting Council to engage in a meaningful environmental review of its application. The use of USGS topographical mapping (10’ contour mapping) is insufficient to assess physical impacts both within and adjacent to the DOT right of way. (SCNET 14, p. 3).
132. The soils to be disturbed by UI construction activities have not been properly assessed or characterized. Given the proximity of the Project to the CTDOT-MNR corridor, it is probable that some, if not all, of the soils will contain potentially harmful

- concentrations of pollutants, including PAHs, PCBs, oil-derived products, pesticides and heavy metals. (SCNET Ex. 14, p. 4).
133. Disturbing the soils poses an undue risk to the ecosystem, including downgradient wetland and coastal resources, and to the public health. (SCNET Ex. 14).
134. The Application does not contain adequate soil and erosion control measures. (SCNET Ex. 14, p. 3).
135. UI has not demonstrated that the foundation of its monopoles will not impact the groundwater regime. (SCNET Ex. p. 5).
136. UI's Application does not adequately compensate for the loss of 6.5 acres of trees, which provide countless environmental benefits including, converting carbon dioxide into oxygen through photosynthesis, providing rainfall interception, wildlife habitat and shade. (SCNET Ex. p. 3).
137. The construction and maintenance of the following monopoles, identified in UI's Application as 654S, 652S, 663S, 671S, 699S, 700S, 704S, 706S, 713S, 713ES, 713ES-1, 713ES-2, 714WS, 714WS-1, 714WS-2, 714WS-3, 716S and, 779S, will likely have an adverse effect on the nearby stream and wetland environments, ecology, and species such as mallard, teal, heron, and egret that use these habitats for nesting, resting, feeding, and rearing young. Lighting and construction noise would likely disturb many of these species, especially their young. (Town Ex. 7, p. 7).
138. Construction activities will have an adverse effect on native bats (e.g., little brown). (Town Ex. 7, p. 8).

RESPECTFULLY SUBMITTED BY:

**SASCO CREEK NEIGHBORS ENVIRONMENTAL TRUST
INCORPORATED, STEPHEN OZYCK, ANDREA OZYCK,
KARIM MAHFOUZ, WILLIAM DANYLKO, DAVID
PARKER, 2190 POST ROAD LLC, INVEST II,
INTERNATIONAL INVESTORS, SOUTHPORT
CONGREGATIONAL CHURCH, PEQUOT LIBRARY
ASSOCIATION, TRINITY EPISCOPAL CHURCH AND
SASQUANAUG ASSOCIATION FOR SOUTHPORT
IMPROVEMENT, INC.**

BY: 
Mario F. Coppola, Esq.
Matthew L. Studer, Esq.
Berchem Moses P.C.
1221 Post Road East, Suite 301
Westport, CT 06880
Telephone No.: (203) 227-9545
mcoppola@berchemmoses.com
mstuder@berchemmoses.com
Their Attorneys

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was electronically mailed and/or deposited in the United States mail, first-class, postage pre-paid this 11th day of January, 2024 to the individuals on the Service List for this Docket, as of January 11, 2024.



Mario F. Coppola, Esq.