

September 22, 2016

Via First Class Mail and Electronic Mail

Melanie A. Bachman
Acting Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Docket No. 470 – Request for Clarification Regarding Request for Party Status and Notice of Intervention

Dear Ms. Bachman:

This communication is in response to the recent Request for Party Status (“Request”) and Notice of Intervention (“Notice”) filed by Attorney John Bashaw on behalf of what he described as an “unincorporated domestic non-profit corporation” known as Not Another Power Plant (NAPP).

NTE Connecticut LLC (“NTE”), the applicant in the Docket No. 470 matter, appreciates and supports the open and participatory approach that is part of both the Environmental Justice and Connecticut Siting Council (“Council”) processes in Connecticut. Consistent with this approach, NTE welcomes the full and active participation of the public in these proceedings. However, for these proceedings to be thoughtful, complete, and orderly, it is important for the Council, the DEEP, the Town, NTE, and all other participants to understand precisely who is, or is not, a party to the proceeding. For this reason we are filing this Request for Clarification and not an objection or opposition to Attorney Bashaw’s recent filing.

We note that the Request and Notice before the Council are on behalf of NAPP which Attorney Bashaw describes as “an unincorporated domestic non-profit association.” While certain individuals (who may or may not be members of NAPP) may qualify for party status, we

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question whether Intervention and Party Status for NAPP are provided for by the law. We note that the Statute cited by Attorney Bashaw provides for intervention by, "...[a]ny person, partnership, corporation, association, organization, or other legal entity..." (emphasis added). To our knowledge, an unincorporated association and more specifically, NAPP, is not a legal entity. Absent a list of the individuals who are members of NAPP as well as identification of the officers or directors and, without the organizational bylaws, it is impossible for any other participant in the proceeding or the Council itself to know whether an association actually exists, what its purpose is, who or what its membership consists of, how the internal decision making takes place, whose positions are being or will be advanced, and who will be bound by what counsel for NAPP, says, represents and/or commits to during the course of the proceeding.

While NTE might reasonably oppose the NAPP Request and Notice before the Council on the above legal and procedural grounds, this option is not being advanced through this letter. At this time, NTE does not oppose the Request or Notice. Rather, NTE is simply requesting that prior to acting on the Request and Notice, the Council require counsel for NAPP to:

1. Provide a current list of all of the members of the unincorporated non-profit domestic association which he has identified as NAPP;
2. Confirm that he (Attorney Bashaw) represents and speaks for all, and can bind, members of NAPP in the Council proceedings at this time and at all times; and
3. Promptly update the Council should there be any change in the membership of NAPP represented by Attorney Bashaw.

Sincerely,



Kenneth C. Baldwin