

BEFORE THE CONNECTICUT SITING COUNCIL

In re: NTE Connecticut, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a 550-megawatt dual-fuel combined cycle electric generating facility and associated electrical interconnection switchyard located at 180 and 189 Lake Road, Killingly, Connecticut

Docket No. 470

Filed: February 23, 2017

**OPPOSITION TO MOTION FOR LEAVE TO REOPEN RECORD  
AND TO MODIFY BRIEFING SCHEDULE**

Not Another Power Plant (“NAPP”) and Wyndham Land Trust (“WLT”) oppose the Motion to Reopen Record for Limited Purpose and to Modify Briefing Schedule filed by NTE Connecticut, LLC (“NTE”) on February 13, 2017.

While the fact that the KEC facility failed to clear ISO-NE’s 11th Forward Capacity Auction (“FCA 11”) is relevant to the Council’s determination of need, the reasons for this failure are not. Despite this, NTE attempts to explain this failure through the proposed supplemental testimony of Seth Shortlidge. The proposed testimony largely consists of information that was provided, or could have been provided, by NTE to the Council in the five days of hearings that have already occurred.

For example, Mr. Shortlidge’s response to the request to state the basis of his opinion is a summary of the testimony already provided by Messrs. Paterno and Bradley. (See Shortlidge Supp. Test., 3:5-15.) His reply to the question “Will the results of FCA 11 impact NTE’s decision to proceed with this project” contains no more than a quote from evidence already presented in this docket (id., 3:18-4:3), followed by a promise to “finalize all necessary permits” and an expression of enthusiasm for “participating in FCA 12” (id., 4:3-4). In short, the testimony that is not repetitive revolves around permit uncertainty, which is not new information and is irrelevant regarding the issue of need.

Reopening the record would place a substantial burden on NAPP and WLT. Members of the two groups have traveled to and attended every day of the hearings, believing in good faith that the hearing schedule was limited. These members are from an environmental justice community and, therefore, burdens placed on them should receive special consideration. In addition to the expenses of time and money incurred by individual members, there would also be a financial burden placed on NAPP and WLT if the hearings continue. NAPP and WLT would need to again retain the services of Robert Fagan in order to address Mr. Shortlidge's proposed testimony. The probative value of the testimony is far outweighed by these significant burdens.

NTE's motion to reopen the record should be denied.<sup>1</sup> The record should be opened solely for the purpose of taking administrative notice, as explained in the motion filed by the undersigned on February 10, 2017. In the event that the Council should determine that the record be reopened beyond taking that administrative notice, evidence should be limited solely to the admission of the written pre-filed testimony of Mr. Shortlidge. If cross-examination of Mr. Shortlidge is permitted by the Council, testimony by other NTE representatives should be prohibited.

**Not Another Power Plant  
Wyndham Land Trust**

/s John R. Bashaw

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<sup>1</sup> NAPP and WLT do not oppose a reasonable modification to the briefing schedule and suggest that the Council move the deadline for briefs and findings of fact to the latter of either two weeks following the resolution of NTE's motion, or two weeks following the Council's publication of the transcript of the hearing in which Mr. Shortlidge is cross-examined by the Council and all parties.

I HEREBY CERTIFY that a copy of the foregoing document was electronically mailed to the following service list on February 23, 2017:

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