



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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VIA ELECTRONIC MAIL

November 2, 2018

Franca L. DeRosa, Esq.
Brown Rudnick LLP
185 Asylum Street
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RE: **DOCKET 192B-** CPV Towantic, LLC Motion to Reopen and Modify the June 23, 1999 Certificate of Environmental Compatibility and Public Need based on changed conditions pursuant to Connecticut General Statutes §4-181a(b) for the construction, maintenance and operation of a 785 MW dual-fuel combined cycle electric generating facility located north of the Prokop Road and Towantic Hill Road intersection in the Town of Oxford, Connecticut. **CPV Towantic, LLC Notification of Planned Transaction.**

Dear Attorney DeRosa:

The Connecticut Siting Council (Council) is in receipt of correspondence dated October 31, 2018 regarding the proposed transaction involving a transfer of upstream corporate ownership interests from CPV Towantic Holding Company, LLC, the majority owner of CPV Towantic, LLC, the holder of the Certificate of Environmental Compatibility and Public Need (Certificate) for the project approved in Docket No. 192B in Oxford, Connecticut (Certificate Holder), to Osaka Gas USA Corporation.

Given that CPV Towantic, LLC will remain the holder of the Certificate after the upstream transfer of ownership interests and will remain responsible for fully implementing and complying with the terms of the Certificate, a transfer of the Certificate pursuant to Conn. Gen. Stat. §16-50k(b) is not warranted. In accordance with the decision in *Town of Middlebury v. Connecticut Siting Council*, "any limited liability company may become a Certificate holder and is not automatically forced to apply for a transfer of the Certificate to the parent entity."

Therefore, the Council hereby acknowledges the notification with the understanding that the Certificate Holder, CPV Towantic, LLC, will comply with the terms, limitations and conditions contained in the existing Certificate and that the contact information for the individuals and representatives responsible for development, management and operation of the facility will remain the same.

In the event that the contact information for the individuals and representatives responsible for development, management and operation of the facility should change, the Council expects the Certificate Holder to timely notify the Council of these changes consistent with Condition Nos. 1k and 1m of the Council's May 14, 2015 Decision and Order for Docket No. 192B.²


¹ *Town of Middlebury v. Connecticut Siting Council*, 2002 Conn. Super. LEXIS 610 (Conn. Super. Ct. 2002).

² **Connecticut Siting Council, Docket No. 192B, Decision and Order, May 14, 2015 – 1k** This Certificate may be transferred in accordance with Conn. Gen. Stat. §16-50k(b), provided both the Certificate Holder/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. In addition, both the Certificate Holder/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly



Thank you for your attention to this matter.

Sincerely,


Melanie A. Bachman
Executive Director

MAB/MP/laf

c: Parties & Intervenors

Kenneth C. Baldwin, Esq., Robinson & Cole LLP
Jon Schaefer, Esq., Robinson & Cole LLP
Mark R. Sussman, Esq., Murtha Cullina
Patricia Boye-Williams, Esq. Murtha Cullina
Council Members

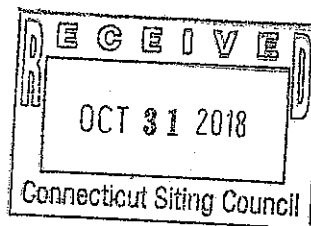
Enc.: Docket No. 192B, May 14, 2015 Decision and Order

assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility; and **Connecticut Siting Council, Docket No. 192B, Decision and Order, May 14, 2015 – 1m**) If the Certificate Holder is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.

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FRANCA L. DeROSA
ATTORNEY-AT-LAW

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October 31, 2018

VIA ELECTRONIC MAIL

Mr. Robert Stein, Chairman
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Docket No. 192B - CPV Towantic, LLC Notification of Planned Transaction

Dear Chairman Stein:

CPV Towantic Holding Company, LLC is hereby notifying the Connecticut Siting Council (Council) of a planned transaction related to CPV Towantic, LLC, as more fully described below.

As you are aware, CPV Towantic, LLC is the holder of the Certificate of Environmental Compatibility and Public Need (Certificate) for the Oxford, Connecticut electric generating facility approved by the Council in Docket No. 192B (the Facility). CPV Towantic, LLC is directly owned by CPV Towantic Holding Company, LLC (the majority owner) and Towantic Energy Holdings, LLC (the minority owner). In the planned transaction, CPV Towantic Holding Company, LLC will sell approximately 49% of its 51% ownership, equivalent to a 25% ownership interest in CPV Towantic, LLC to a wholly-owned subsidiary of Osaka Gas USA Corporation (Osaka). Following completion of this transaction, CPV Towantic, LLC will remain the owner and operator of the Facility and the Certificate holder responsible for fully implementing and complying with all terms of the Certificate.

Conn. Gen. Stat. §16-50k(b) requires Council approval for a transfer of a Certificate of Environmental Compatibility. As described above, CPV Towantic, LLC will continue to own and operate the Facility, and will remain the holder of the Certificate after the planned transaction. Therefore, a transfer of the Certificate pursuant to Conn. Gen. Stat. §16-50k(b) is not warranted, and Council approval is not required for the planned transaction. *See Town of Middlebury v. Connecticut Siting Council*, No. CV010508047S, 202 Super Conn. LEXIS 610 (February 27, 2002). Additionally, there will be no change in contact information for the individuals and representatives responsible for management,



and operation of the Facility. See Decision and Order, Docket NT-2010, Order No. 9 (March 17, 2011) and Decision and Order, Docket No. 192B, Condition No. 1.m.

CPV Towantic Holding Company, LLC is aware of a separate proposed transaction involving the sale by Aircraft Services Corporation to an affiliate of Osaka of an interest in Towantic Energy Holdings, LLC. CPV Towantic Holding Company, LLC is not involved in the Aircraft Services Corporation transaction, and its transaction is not coordinated with or dependent upon the Aircraft Services Corporation transaction. We do not represent anyone in the Aircraft Services Corporation transaction. Aircraft Services Corporation's attorneys at Robinson +Cole will be communicating the details of the Aircraft Services Corporation transaction to you in separate letter.

Please contact Philip Small or me at (860) 509-6500 with any questions or if you need additional information.

Very truly yours,

BROWN RUDNICK LLP

By: 

Franca L. DeRosa

FLD/jmb

cc: Philip M. Small, Brown Rudnick
Mark R. Sussman, Murtha Cullina
Patricia Boye-Williams, Murtha Cullina
Ken Baldwin, Robinson+Cole
Jon Schaefer, Robinson+Cole

DOCKET 192B- CPV Towantic, LLC Motion to Reopen and Modify the June 23, 1999 Certificate of Environmental Compatibility and Public Need based on changed conditions pursuant to Connecticut General Statutes §4-181a(b) for the construction, maintenance and operation of a 785 MW dual-fuel combined cycle electric generating facility located north of the Prokop Road and Towantic Hill Road intersection in the Town of Oxford, Connecticut.	} } } }	Connecticut Siting Council May 14, 2015
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Decision and Order

Pursuant to Connecticut General Statutes (CGS) §4-181a(b) and the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the modification of the previously approved 512 megawatts (MW) dual-fuel combined cycle electric generating facility to the proposed 785 MW dual-fuel combined cycle electric generating facility in Oxford, Connecticut, including effects on the natural environment; ecological integrity and balance; public health and safety; scenic, historic, and recreational values; forests and parks; air and water purity; and fish and wildlife are not disproportionate either alone or cumulatively with other effects when compared to public benefit, are not in conflict with policies of the State concerning such effects, and are not sufficient reason to deny this Motion to amend and modify the June 23, 1999 Certificate of Environmental Compatibility and Public Need (Certificate).

This Decision and Order shall supersede the June 23, 1999 Certificate issued by this Council as amended on March 17, 2011, and shall be subject to the following conditions and requirements:

1. Conditions

- a) The facility shall be constructed and operated substantially as specified by the Certificate Holder in the record in Docket No. 192 and this proceeding, except where otherwise ordered by the Council;
- b) The exhaust stacks shall be no higher than necessary, consistent with air emissions modeling conducted by the Department of Energy and Environmental Protection (DEEP);
- c) The project shall operate primarily on natural gas, except when the project may operate on ultra-low sulfur distillate fuel (ULSD) for a maximum total of 720 hours per year or as permitted by the DEEP;
- d) The Certificate Holder shall continue to fund and maintain two stream gauge stations on the Pomperaug River;
- e) The use of natural gas as a fuel pipeline/system cleaning medium for construction or any future facility modification shall be prohibited;
- f) Submit the following information to the Council 15 days prior to any fuel pipeline/system cleaning operations related to construction or any future facility modification:
 - i. Identification of the cleaning media to be used;
 - ii. Identification of any known hazards through use of the selected cleaning media;
 - iii. Description of how known hazards will be mitigated, including identification of any applicable state or federal regulations concerning hazard mitigation measures for such media;
 - iv. Identification and description of accepted industry practices or relevant regulations concerning the proper use of such media;
 - v. Provide detailed specifications (narratives/drawings) indicating the location and procedures to be used during the pipe cleaning process, including any necessary worker safety exclusion zones;
 - vi. Identification of the contractor or personnel performing the work, including a description of past project experience and the level of training and qualifications necessary for performance of the work;

- vii. Contact information for a special inspector hired by the Certificate Holder who is a Connecticut Registered Engineer with specific knowledge and experience regarding electric generating facilities or a National Board of Boiler and Pressure Vessel Inspector and written approval of such special inspector by the local fire marshal and building inspector; and
 - viii. Certification of notice regarding pipe cleaning operations to all state agencies listed in CGS § 16-50j(g), the Department of Consumer Protection, Department of Labor, Department of Emergency Services and Public Protection (DESPP), Department of Construction Services, Department of Emergency Management and Homeland Security, and the local Fire Marshal.
- g) The Certificate Holder shall comply with the following codes and standards, as adopted and amended by the DESPP and/or the Authority Having Jurisdiction, for any fuel pipeline/system cleaning operations related to construction or any future facility modification, as applicable:
- i. NFPA 37 (2010 edition);
 - ii. NFPA 54 (2009 edition);
 - iii. NFPA 54 Temporary Interim Amendment 09-3 (August 25, 2010);
 - iv. NFPA 850 (2010 edition);
 - v. NFPA 850 Temporary Interim Amendment 10-2 (November 9, 2010);
 - vi. ASME B31 (2007); and
 - vii. ASME B31.1 Appendices IV and V (2007).
- h) Submit a copy of an Emergency Response/Safety Plan developed in cooperation with all local public safety officials, Waterbury-Oxford Airport, the DESPP, and other emergency response officials that identifies any revisions since the initial filing of the Development and Management Plan and that includes, but is not limited to the following:
- i. A description of the results of any simulated emergency response activities with any state and/or local emergency response officials;
 - ii. Details of any facility site access system that accounts for all personnel entering and leaving the facility; and
 - iii. Establishment of an emergency responder/local community notification system for on-site emergencies and planned construction-related activities that could cause community alarm. The system shall include notification to the following: local emergency responders, city or town officials, state legislators, and local residents that wish to participate.
- i) The Certificate Holder shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v.
- j) The Certificate Holder shall provide the Council with written notice of the completion of site construction and the commencement of site operation.
- k) This Certificate may be transferred in accordance with Conn. Gen. Stat. §16-50k(b), provided both the Certificate Holder/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. In addition, both the Certificate Holder/transferor and the transferee shall provide the Council a written agreement as to the entity responsible for any quarterly assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility.
- l) The Certificate Holder shall provide the Council with not less than 30 days written notice that the facility plans to cease operation.

- m) If the Certificate Holder is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.
- n) The Certificate Holder shall retain for the duration of construction a special inspector to assist the fire marshal in reviewing the construction plans and conducting inspections sufficient to ensure compliance with recommended standards pursuant to CGS §16-50ii and submit the contact information for the special inspector to the Council.
- o) The Certificate Holder shall deposit a fee into the Code Training Fund to be used in the training of local fire marshals on the complex issues of electric generating facility construction in accordance with CGS §29-251c.
- p) Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed by June 1, 2019, this Decision and Order shall be void, and the Certificate Holder shall dismantle the facility and all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's Final Decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The Certificate Holder shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
- q) Any request for extension of the time period referred to in Condition 1p shall be filed with the Council not later than 60 days prior to the expiration date of this Certificate and shall be served on all parties and intervenors, as listed in the service list, and the Towns of Oxford and Middlebury.
- r) If the facility ceases to provide electric generation for a period of one year, this Decision and Order shall be void, and the Certificate Holder shall notify the Council in writing and implement the Decommissioning Plan.
- s) The Certificate Holder shall submit the Federal Aviation Administration determination for obstruction to air navigation and lighting and marking to the Council prior to construction.
- t) The Certificate Holder shall submit the Borough of Naugatuck Water Pollution Control Authority wastewater permit to the Council prior to construction.
- u) The Certificate Holder shall submit the final DEEP air emissions and water discharge permits to the Council prior to construction.

2. Development and Management Plan

The Certificate Holder shall prepare a Development and Management (D&M) Plan for this site in compliance with Sections 16-50j-60 through 16-50j-62 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Towns of Oxford and Middlebury for comment, and all parties and intervenors as listed on the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:

- a) A final site plan showing all roads, structures and other improvements on the site. The final site plan shall, where possible, preserve existing vegetation on the site;
- b) A detailed plan for the gas transmission interconnection showing gas metering and compressor station if applicable;
- c) Water and sewer connection routes;

- d) Detailed project schedules for all work activities and proposed construction hours;
- e) Erosion and sedimentation control plans that reflect the complexity of developing the site;
- f) Emergency response/safety plan per Condition No. 1(h) of the Decision.
- g) Final noise mitigation measures and plans to demonstrate compliance with DEEP noise standards;
- h) Final determination on black start capability and such design if applicable;
- i) Stormwater pollution protection plan outlining best management practices;
- j) Final stormwater design including evaluating the feasibility of not introducing stormwater into the wastewater;
- k) Updated Water Supply/Management Plan;
- l) Decommissioning Plan;
- m) Updated fuel storage and handling plan including containment and other measures to protect against spillage when the ULSD tank is being refilled;
- n) Containment and/or protective measures for the safe delivery and storage of hydrogen and aqueous ammonia;
- o) Maintenance of detention basins;
- p) Backup generator design and containment measures for fuel, oil, and coolant;
- q) Final report on wildlife surveys performed in 2015 and any recommended measures to mitigate wildlife impacts due to construction and/or habitat loss;
- r) Dewatering plan to address groundwater issues during construction;
- s) Final construction traffic route plans;
- t) Fence design and other site security measures;
- u) Federal Aviation Administration lighting design for the stacks; and
- v) Full geotechnical study performed on Lot 9A prior to finalizing construction plans.

3. Operations Plan

To ensure compliance with the Council's Decision and Order, the Certificate Holder shall not commence operation of the facility until it has secured approval of an Operations Plan with components to include base line testing, performance objectives, post-construction operations monitoring, enforcement protocol, and the development of mitigation measures to ensure compliance with regulatory requirements and/or performance objectives for each of the following components:

- a) noise emissions;
- b) water usage;
- c) water discharges;
- d) air and water vapor emissions;
- e) odors;
- f) plant lighting;
- g) traffic management; and
- h) physical plant and site management.

4. Notification

The Certificate Holder shall provide the Council with written notification of the following events not less than two weeks in advance of their occurrence:

- a) commencement of facility construction;
- b) commencement of facility testing;
- c) commencement of commercial operations; and
- d) permanent termination of any operation of the project.

5. Reporting

The Certificate Holder shall provide the Council with following reports:

- a) Quarterly progress reports to include the status of all permits, starting with the effective date of this Decision and Order and ending with the commencement of facility operation, or as otherwise directed by the Council; and
- b) A first year operating report, to be submitted to the Council within three months after the conclusion of the first year of operation, to include:
 - i. The number of hours when operation on natural gas was curtailed and ULSD was burned, facility capacity and availability, and the number of and reasons for any interruption in electric generation; and
 - ii. Overall condition and reliability of the facility.

We hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed in the Service List, dated February 9, 2015, and notice of issuance published in The Republican American, and The Voices.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.