

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :
: :
APPLICATION OF NTE CONNECTICUT, LLC : DOCKET NO. 470
FOR A CERTIFICATE OF ENVIRONMENTAL : :
COMPATIBILITY AND PUBLIC NEED FOR : :
THE CONSTRUCTION, MAINTENANCE AND : :
OPERATION OF AN ELECTRIC POWER : :
GENERATING FACILITY OFF LAKE ROAD, : :
KILLINGLY, CONNECTICUT : JANUARY 19, 2018

**MOTION OF NTE CONNECTICUT LLC TO REOPEN AND MODIFY
THE DECISION IN DOCKET NO. 470 DUE TO CHANGED CONDITIONS**

I. Introduction

Pursuant to Conn. Gen. Stat. § 4-181a(b), NTE Connecticut, LLC (“NTE”) hereby moves the Connecticut Siting Council (“Council”) to reopen this docket and modify, based on changed conditions, its Decision and Order, Opinion and Findings of Fact (collectively the “Decision”) in Docket No. 470. The Decision denied, without prejudice, NTE’s request for a Certificate of Environmental Compatibility and Public Need (“Certificate”) to construct, operate and maintain the Killingly Energy Center (“KEC”), a 550 megawatt (“MW”) dual fuel combined cycle electric generating facility on property at 180 and 189 Lake Road in Killingly, Connecticut (“Property”). Based on changed conditions, discussed in this motion and as further described in the Testimony of Timothy Eves, Vice President of NTE Connecticut (“Eves Testimony”), attached hereto as Exhibit 1, the Testimony of Paul J. Hibbard, a Principal at Analysis Group, Inc. (“Hibbard Testimony”), attached hereto as Exhibit 2, and the Environmental Overview in Support of Petition for Changed Conditions prepared by Tetra Tech Inc. (“Environmental Overview”), attached hereto as Exhibit 3, NTE respectfully requests that the Council reopen the Docket No. 470 evidentiary proceeding, modify the Decision and issue a Certificate for the KEC Facility.

II. Procedural Background

On August 17, 2016, NTE filed with the Council an Application for a Certificate pursuant to Conn. Gen. Stat. Section 16-50g et seq. for the construction, maintenance and operation of the KEC generating facility (“KEC Facility”) in Killingly, Connecticut. The KEC Facility will enhance the reliability of the electric power supply in Connecticut and throughout the New England region and promote the competitive market place for electricity, increase the efficiency of and reduce the emissions from the region’s electric generation fleet and provide substantial benefits to Killingly and the surrounding communities in eastern Connecticut. The Council conducted a public hearing in Killingly on October 20, 2016, and a series of evidentiary hearings between November 3, 2016 and March 23, 2017.

In early February 2017, NTE participated in the ISO-NE Forward Capacity Auction No. 11 (“FCA 11”). At the time of FCA 11, there remained a number of cost and schedule uncertainties associated with the KEC project. Given these uncertainties, NTE elected to withdraw from FCA 11 prior to bidding in the final round of the auction. NTE’s bidding strategy and reasons for withdrawing from FCA 11 were discussed in detail at the Council’s final evidentiary hearing on March 23, 2017.

On May 11, 2017, the Council issued the Decision denying, without prejudice, the NTE Application finding that, following the results of FCA 11, the ISO-NE had determined the KEC Facility was not required for resource adequacy, at least through the capacity commitment period of 2020 through 2021. During its deliberations on the Decision, the Council recognized and discussed NTE’s ability to request that the Docket No. 470 proceeding be reopened on a showing of changed conditions. A determination by ISO-NE issuing NTE and KEC a capacity supply obligation (“CSO”) in a future auction would be a clear example of such changed conditions as are other recent developments discussed in more detail in the Eves Testimony and the Hibbard

Testimony.

III. The Council Has the Statutory Authority to Reopen and Modify its Decision

Pursuant to Conn. Gen. Stat. § 4-181a(b), the Council has the authority to reopen Docket No. 470 and modify its Decision due to changed conditions that have occurred since the Decision of May 11, 2017. Specifically “on a showing of changed conditions the agency may reverse or modify the final Decision at any time at the request of any person or on the agency’s own motion”. Conn. Gen. Stat. § 4-181a(b). The Council has previously exercised its authority under Conn. Gen. Stat. § 4-181a(b) which “permits an agency to consider whether changed conditions exist and then consider whether such changed conditions if any justify reversing or modifying the Council’s original Decision...”. *See Council Docket No. 192 Reopening Pursuant to Conn. Gen. Stat. § 4-181a(b) Proceeding*, Opinion dated January 4, 2007 p. 1. The Council will find changed conditions when there is “new information or facts, identification of any unknown or unforeseen events or evidence... that were not available at the time of the final decision”. *See Docket No. 190B, Meriden Gas Turbine LLC reopening pursuant to Conn. Gen. Stat. § 4-181a(b)*, Conclusions of Law.

Consistent with this legal standard, the Council has reopened a number of electric generating facilities dockets and revised final decisions under Conn. Gen. Stat. §4-181a(b) based on new facts or when circumstances not previously contemplated by the Council have arisen. *Docket No. 187, Milford Power, LLC, Reopening Pursuant to for Conn. Gen. Stat. §4-181a(b) Proceeding*, Opinion, April 7, 2009, page 2 (reopening the docket to allow the continued use of potable water because "at the time of certification, the record did not speak to sources of cooling water for contingency events."); *Docket NT-2010, Reopening of Final Decisions*, Opinion, March 17, 2011 (finding that the adoption of new industry practices regarding gas pipe cleaning constituted changed conditions warranting prohibitions and limitations on fuel pipeline/system

cleanings); *Docket No. 187A, Milford Power, LLC, Certificate of Environmental Compatibility and Public Need*, Opinion, Dec. 2, 2010 (finding that an increase in natural gas supply, improvements to the electrical transmission grid and construction of other generation facilities were changed conditions supporting removal of dual fuel requirements); *Docket No. 225B, Kleen Energy Systems, LLC, Certificate of Environmental Compatibility and Public Need*, Opinion, July 22, 2009 (finding that the State's imposition of an aquifer protection zone was a changed condition justifying relocation of oil pipeline route); *Docket No. 189A, Lake Road Generating Co., Reopening Pursuant to Conn. Gen. Stat §4-181a(b)*, Findings of Facts, Jan. 19, 2012, ¶ 20-21 (finding that the increases in the natural gas supply, natural gas pipeline capacity, and the price of fuel oil created changed conditions supporting removal of dual fuel requirements); *Docket No. 265A, Dominion Nuclear Connecticut, Inc., Reopening Pursuant to Conn. Gen. Stat §4-181a(b)*, Findings of Facts, May 2, 2013, 1129-33 (finding that the changes in federal policy regarding the management of spent nuclear fuel and changes in the facility's management of spent fuel constituted changed conditions allowing the change to spent fuel storage installation).

As the discussion of changed conditions below underscores, NTE more than satisfies applicable standards with respect to reopening the docket and modifying the Decision.

IV. Changed Conditions for the KEC Facility

A. Cost and Schedule Uncertainties Resolved

As discussed in testimony from NTE's CEO on March 23, 2017, and in the attached Eves Testimony, at the time of FCA 11 there remained a substantial number of cost and schedule uncertainties associated with the KEC project. At that time for example, NTE had not received its air permit from the Connecticut Department of Energy and Environmental Protection ("DEEP") and had not finalized many of the substantive agreements (water supply and associated construction agreements, natural gas supply and associated engineering and

construction agreements, Community Environmental Benefits Agreement (“CEBA”), and Tax Stabilization Agreement) that are important to the ultimate success of the KEC project. Given the cost and schedule implications of these incomplete efforts, NTE withdrew from FCA 11 prior to the final round of bidding.

Recognizing that securing a CSO is an important factor in the Council’s needs analysis, NTE has taken several significant steps to remove the uncertainties discussed above as it prepares to participate in FCA 12 on February 5, 2018.

- As discussed in more detail below, NTE has been pre-qualified by ISO-NE to participate in FCA 12 and set a minimum offer price for KEC.
- On June 30, 2017, NTE secured the final, unappealable air permit from the DEEP for the KEC project. (NTE has since filed for and expects to receive a minor air permit modification reflecting NTE’s plan to utilize new turbine technology discussed in more detail below.)
- NTE has executed an Engineering Agreement with Yankee Gas for engineering and permitting of the lateral gas service line, to be owned by Yankee Gas, necessary to provide for the delivery of natural gas from the Algonquin transmission line to the KEC Facility. Yankee Gas has recently commenced its permitting process for installation of this new gas distribution line.
- NTE has entered into a Water Supply Agreement with the Connecticut Water Company (“CWC”) for the delivery of up to 400,000 gallons per day of water to the KEC Facility.
- NTE has entered into two separate Construction Agreements with CWC through which NTE has committed to pay all costs associated with the installation of a

new water service line connecting the CWC system to KEC and the Killingly Industrial Park and for the interconnection of CWC's Plainfield and Crystal Water Company systems.

- The Town of Killingly Town Council has voted to approve NTE's proposed Tax Stabilization Agreement and CEBA for the KEC Facility.
- NTE has finalized the form of a Property Valuation Guarantee Agreement ("PVG") and has committed to offer the PVG to all property owners within 2,500 feet of the KEC project site by March 31, 2018.
- NTE has made significant progress with Yankee Gas in finalizing a service agreement.

B. Upgrades to Turbine Technology

As described in more detail in the Eves Testimony and the Environmental Overview, NTE has selected the Mitsubishi Model M501JAC ("J Series") combustion turbine generator to replace the Siemens Model SGT6-8000H turbine described in the original NTE application. The benefits, all while maintaining KEC's nominal 550 MW rating, to using the Mitsubishi turbine system include:

- continued high efficiency, rapid starts and dual fuel rapid switching ability;
- reduction in short-term particulate matter emissions while maintaining a similar emissions profile for the balance of the associated air emissions parameters; and
- higher design heat input rating and output allowing for a reduction in fuel consumption by the system's duct burners.

These changed conditions will require NTE to receive approval from the DEEP for a "minor modification" to the existing KEC air permit. KEC's air permit minor modification

application was submitted on November 22, 2017 and DEEP issued its Sufficiency Notice to KEC on December 12, 2017. Supplemental information for the air permit minor modification application was also filed with DEEP in January 2018.

C. Beneficial Adjustments to the KEC Facility Layout

As described in more detail in the attached Environmental Overview, NTE has improved the overall layout of the KEC Facility by repositioning certain facility components, relocating the perimeter access road and eliminating the proposed retaining wall in the northeasterly portion of the site resulting in an increased setback from sensitive on-site environmental resources.

V. Continued Community Outreach

In an effort to keep the Killingly community informed on NTE's progress with the project and its efforts to reopen this proceeding, NTE held an additional community outreach meeting on December 18, 2017, at the Killingly High School. Notice of this additional public information session was published in *The Bulletin* and *Killingly Villager* and posted on the Property. At this meeting NTE described the changed conditions referenced in this Motion, updated Killingly residents on the status of the Tax Stabilization Agreement and the CEBA with the Town and answered questions regarding the KEC project and NTE's plans to file this Motion with the Council. KEC continues to publish its monthly newsletter, update the KEC project's website and make publicly available copies of all new reports, applications, materials and presentations made on behalf of KEC on its website and in hard copy in the Killingly Public Library.

VI. Forward Capacity Auction 12

After reviewing KEC's detailed financial information and its development and construction schedule, ISO-NE notified NTE that it is pre-qualified to participate in FCA 12 and set a minimum offer price for KEC. As discussed in the Eves Testimony and the Hibbard

Testimony, NTE is confident that, based on the changed conditions described above, it will receive a CSO in FCA 12. Moreover, NTE is confident that, as addressed in the Hibbard Testimony, the “need” criterion of the Council’s statute has been amply demonstrated. NTE, therefore, respectfully requests that the Council postpone any decision on this Motion until after the results of FCA 12 are made publicly available.

VII. Conclusion

For all of the reasons discussed above and in the attached, NTE respectfully requests that the Council grant its Motion to Reopen this proceeding and modify the Docket No. 470 Decision.

Respectfully submitted,
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CERTIFICATION OF SERVICE

I hereby certify that on this 19th day of January 2018, a copy of the foregoing was sent via electronic mail and first class U.S. Mail, to the following:

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