



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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VIA ELECTRONIC MAIL

April 24, 2020

Logan Black
Project Manager
CS Energy
100 Grove Street, Suite 315
Worcester, MA 01605

RE: **PETITION NO. 1345** – North Stonington Solar Center, LLC declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 15 MW AC solar photovoltaic electric generating facility on approximately 353 acres comprised of four abutting parcels located east of Pendleton Hill Road, north of the Pawcatuck River and south of Interstate-95 with proposed access from Ella Wheeler Road, and associated electrical interconnection to Eversource Energy's Shunock Substation west of Pendleton Hill Road in North Stonington, Connecticut. **Partial Development and Mangement Plan-Site Clearing Request.**

Dear Mr. Black:

At a public meeting of the Connecticut Siting Council (Council) held on April 23, 2020, the Council considered and denied the partial Development and Management (D&M) Plan submitted for this project on March 17, 2020 on the basis that it is not in compliance with the Council's October 26, 2018 Declaratory Ruling as the site plan does not comply with the site layout approved by the Council and a Department of Energy and Environmental Protection approved Storm Water Pollution Control Plan was not submitted.

Pursuant to Regulations of Connecticut State Agencies §§16-50j-60 to 16-50j-62, the Council may require the preparation of a D&M Plan for proposed energy facilities where the preparation of such a plan would help significantly in balancing the need for adequate and reliable utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state. A D&M Plan may be submitted to the Council in one or more sections. Except as otherwise authorized by the Council, no clearing or construction shall begin prior to approval of applicable sections of the D&M Plan.

The Council recommends CS Energy submit a request to amend the October 26, 2018 Declaratory Ruling for the modified site layout proposed in the Partial D&M Plan or a revised D&M Plan for the approved site layout for Council review and approval prior to any work commencing on the site, including, but not limited to, site clearing.

This denial applies only to the partial D&M Plan submitted on March 17, 2020 and other information submitted on March 18, 2020.

Enclosed is a copy of the staff report on this partial D&M Plan, dated April 23, 2020.

Thank you for your attention and cooperation.

Sincerely,

s/Melanie A. Bachman

Melanie A. Bachman
Executive Director

MAB/RDM/lm

Enclosure: Staff Report, dated April 23, 2020



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Petition No. 1345
North Stonington Solar Center, LLC

Partial Development & Management Plan
Staff Report

April 23, 2020

Introduction

On October 26, 2018, the Connecticut Siting Council (Council) issued a Declaratory Ruling to Pawcatuck Solar Center LLC (PSC) for the construction, maintenance, and operation of a 15.0 megawatt (MW) AC solar photovoltaic electric generating facility on approximately 353 acres comprised of four abutting parcels off Ella Wheeler Road in North Stonington, and an associated electrical interconnection to Eversource Energy's Shunock Substation on Pendleton Hill Road in North Stonington.

The Council's October 26, 2018 Declaratory Ruling ordered a specific site layout, referred to as the Project Alternate that reduced the amount of forest clearing on a relatively steep slope in the northeast portion of the site, and required a Development and Management (D&M) Plan to be submitted to the Council for approval prior to commencement of facility construction at the site.

On June 11, 2019, pursuant to Condition Nos. 6 and 7 of the Council's Declaratory Ruling PSC notified the Council that Lincoln Clean Energy acquired the Project and renamed the Project, "North Stonington Solar Center, LLC."

On March 3, 2020, pursuant to Condition Nos. 6 and 7 of the Council's Declaratory Ruling-Enerparc, Inc. notified the Council that it acquired the Project from Lincoln Clean Energy.

Partial D&M Plan

On March 17, 2020, CS Energy, who is serving as the General Contractor for the Project, filed a partial D&M Plan with the Council. In its partial D&M Plan, CS Energy requests to commence site clearing to avoid conflicts with a Department of Energy and Environmental Protection (DEEP) site clearing restriction associated with the red bat, a special concern species listed on the Natural Diversity Database, which may occur in the forested areas of the site. The petition record reflects PSC's commitment to avoidance of tree clearing between May 1 and August 15 to mitigate potential construction impacts to the red bat. Per e-mail correspondence to CS Energy dated March 6, 2020, DEEP requested that no tree clearing occur between the period of May 1 and September 1.

The Council submitted interrogatories to CS Energy on March 17, 2020. CS Energy submitted responses to the Council's interrogatories on March 18, 2020.

CS Energy submitted a copy of its partial D&M Plan to the Town of North Stonington on March 18, 2020. No comments have been received to date.

Based on the information contained in the March 17, 2020 partial D&M Plan and March 18, 2020 interrogatory responses, the partial D&M Plan does not comply with the conditions the Council ordered in its Declaratory Ruling, including, but not limited to, the specific Project Alternate 2 site layout.

Condition No. 1 of the Council's Declaratory Ruling requires the following:

The Petitioner shall prepare a Development and Management Plan (D&M) for this facility *using the Alternate 2 site layout design, as depicted on Array Plan WJ111, submitted to the Council on October 12, 2018*. The D&M Plan shall be 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 Town of North Stonington for comment and submitted to and approved by the Council prior to the commencement of facility construction... (Emphasis added.)

The submitted partial D&M Site Plan depicts a modified site layout that is inconsistent with the site layout approved by the Council in its Declaratory Ruling. CS Energy provides no explanation as to the reasons for the modifications to the approved site layout.

Pursuant to Regulations of Connecticut State Agencies §§16-50j-60 to 16-50j-62, the Council may require the preparation of a D&M Plan for proposed energy facilities where the preparation of such a plan would help significantly in balancing the need for adequate and reliable utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state. A D&M Plan may be submitted to the Council in one or more sections. Except as otherwise authorized by the Council, no clearing or construction shall begin prior to approval of applicable sections of the D&M Plan.

The Council's Declaratory Ruling requires the following information to be included in the D&M Plan:

- a) **A final site plan including, but not limited to, final solar panel and tracking system design, access roads, electrical interconnection, fencing, equipment pads, and post-construction stormwater controls, as designed in the Department of Energy and Environmental Protection (DEEP)-approved Stormwater Pollution Control Plan (SWPCP);**

CS Energy has not submitted a final site plan-clearly identifying the arrangement of the solar arrays or the limits of necessary site clearing. The submitted plan included clearing limits based on the Council's approved Alternate 2 site layout, without site clearing modifications that may be necessary for the new proposed solar array that is depicted in CS Energy's site plan.

b) Submission of a copy of the DEEP-approved SWPCP;

CS Energy did not submit a DEEP-approved Stormwater Pollution Control Plan (SWPCP) with its partial D&M Plan. CS Energy filed an SWPCP application to DEEP on March 16, 2020 that included a site plan with clearing limits based on the Council's approved Alternate 2 site layout, rather than the proposed modified site layout. CS Energy did not provide any authorization from the DEEP Stormwater Division stating that site clearing can proceed while their SWPCP application is under review.

c) Construction site plans that comply with the DEEP-approved SWPCP and include, but are not limited to, site clearing, grading, site phasing, construction laydown areas, temporary access roads, erosion and sedimentation controls, concrete washout stations, and specifics on construction related environmental mitigation;

CS Energy did not submit a DEEP-approved SWPCP with its partial D&M Plan.

d) Final seeding plan for all disturbed areas of the site;

There are no provisions in the partial D&M plan regarding seeding of areas disturbed by site clearing operations.

e) Construction work hours and days of the week;

This information was not provided in the partial D&M Plan.

f) Details of any post-construction environmental mitigation measures; (not applicable to site clearing) and

g) Details of post-construction site maintenance and vegetation management. (not applicable to site clearing)

Conclusion

A D&M Plan is a condition of a final decision in a proceeding that must be met in order to commence facility construction. It functions to "fill up the details" and constitutes the "nuts and bolts" of the facility approved by the Council.¹ Any modifications to an approved facility prior to the submission and Council approval of a D&M Plan constitute amendments to the facility that was approved in the Council's Declaratory Ruling.

¹ *Town of Westport v. Conn. Siting Council*, 260 Conn. 266 (2002); *Town of Middlebury v. Conn. Siting Council*, 2002 Conn. Super. LEXIS 610 (Conn. Super. 2002).

Based on the information submitted for the North Stonington Solar Center, including the submission of a final site plan that does not comply with the site layout approved by the Council and the lack of a DEEP-approved SWPCP, the Partial D&M Plan is not in compliance with the Council's Declaratory Ruling issued on October 26, 2018. Therefore, staff recommends the partial D&M Plan be denied and CS Energy submit a request to amend the Council's October 26, 2018 Declaratory Ruling.