

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

Doosan Fuel Cell America, Inc. Petition for a Declaratory)	
Ruling, Pursuant to Connecticut Conn. Gen. Stat. §4-176 and)	Petitions 1406 and 1406A
§16-50k, for the Proposed Construction, Maintenance and)	
Operation of a Grid-side 9.66-Megawatt Fuel Cell Facility)	
and Associated Equipment to be Located at 600 Iranistan)	
Avenue, Bridgeport, Connecticut,)	June 21, 2021
)	

**VERIFIED PETITION UNDER C.G.S. §22a-19(a)
OF ALLCO RENEWABLE ENERGY LIMITED FOR PARTICIPANT STATUS
AS OF RIGHT**

1. Thomas Melone, an attorney at law admitted to practice in the Courts of the State of Connecticut, on behalf of Allco Renewable Energy Limited affirms the following statements to be true under the penalties of perjury and having been duly sworn under oath affirms and hereby petitions for Allco Renewable Energy Limited (“Allco”) to become a party in the above-captioned proceedings related to the construction and operation of a 9.66 megawatt (“MW”) climate-destroying natural gas fuel cell electrical generation facility proposed to be located in a “red” zone for hospitalizations for asthma.

2. In support of its petition, Allco asserts that it meets the requirements for intervention and participation as of right under C.G.S. §22a-19(a).

3. Allco’s corporate mission is to combat climate change, ensure a full accounting of the economic and health burden on ratepayers from energy policy, enforce laws that encourage solar development, challenge laws and policies that restrict or burden solar development, and fight the devastating environmental impacts from burning fossil fuels, including without limitation the adverse effects that continued use of fossil-fuel generation will have on humans and endangered species.

4. C.G.S. §22a-19(a) states that “...[i]n any administrative, licensing or other proceeding...any person, partnership, corporation, association, organization or other legal entity may intervene as a party on the filing of a verified pleading asserting that the proceeding...involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.”

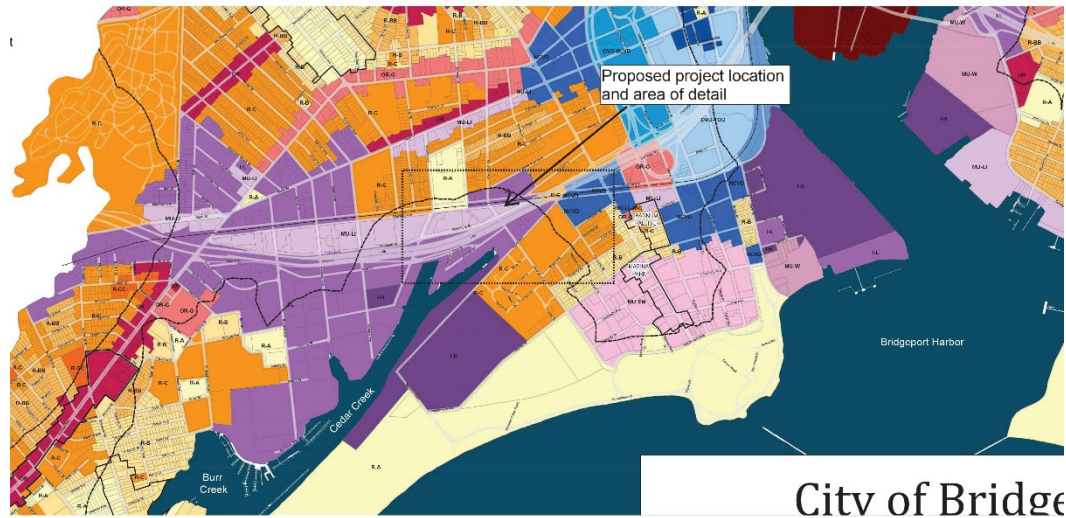
5. This proceeding is addressing whether to authorize the construction and operation of a 9.66MW climate-destroying natural gas fuel cell electrical generation facility proposed to be located in a “red” zone for hospitalizations for asthma (the “Project”).

6. The construction and operation of the Project are reasonably likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.

7. Making matters worse, the Project would displace true renewable energy projects that would otherwise be built in the New England states and on the ISO-New England electricity grid. But for the Project and ones like it, Connecticut would turn to solar electricity projects with storage, which create more of a positive economic impact, and none of the adverse consequences of the Project.¹

¹ In NEPA reviews for over the past 35 years, federal agencies have consistently understood that a decision not to take action related to energy production will trigger other actions. Federal agencies have further analyzed how such triggered actions generate different consequences for air pollution, climate change, and overall environmental quality. The U.S. Court of Appeals for the D.C. Circuit has praised agency analysis of these substitution effects. As far back as 1979, the federal agencies have assessed the different environmental effects of energy substitutes under a no-action alternative—including different levels of carbon dioxide emissions. Federal agencies recognized that canceling even a single oil and gas lease would cause the market to respond by substitution. *Final Environmental Statement, OCS Sale No. 48, Proposed 1979 Outer Continental Shelf Oil and Gas Lease Sale Offshore Southern California*, 1508–09 (1979). See also BLM, *Draft Environmental Statement, Proposed Five-Year OCS Oil and Gas Lease Sale Schedule 63* (1980)

8. The area for the proposed project is an environmental justice community. “The nearest residential properties are approximately 136 feet North of the Site.” *See*, Petition at 8.



9.



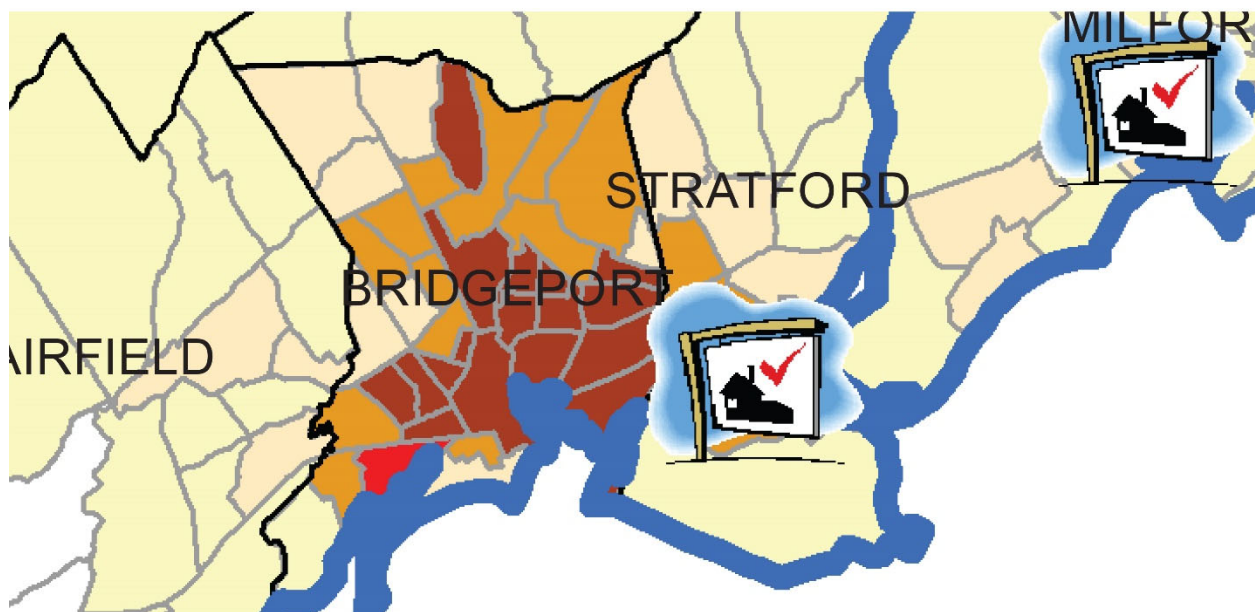
10.

(“An alternative . . . to cease leasing . . . would result in the need to meet national energy needs through other sources, or to reduce energy consumption . . .”).

11. The fuel cell facility would be three stories high.

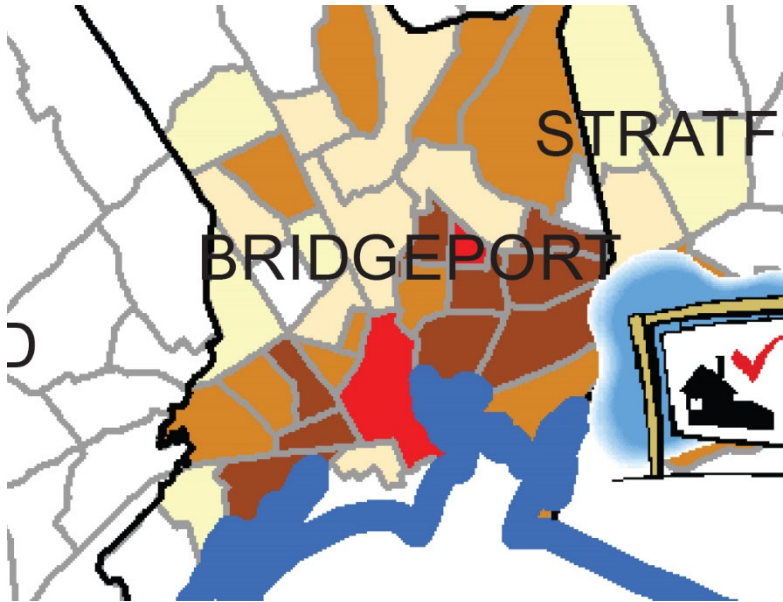


12. The project area has by far one of the highest incidents of emergency room hospital visit rates for asthma in the State of Connecticut as shown below.



13. See, <https://portal.ct.gov/DPH/Health-Education-Management--Surveillance/Asthma/Asthma-Surveillance---GIS>.

14. That area is a **RED ZONE** because it has one of the highest hospitalization rates for asthma in Connecticut. See, https://portal.ct.gov/-/media/DPH/Asthma/1519_HOSP_CTrates.pdf.



15. The severe adverse health effects in Connecticut from fossil fuel generators such as the proposed facility are also acknowledged in DEEP's draft IRP at p.107: "Connecticut experiences some of the worst ozone pollution in the United States. Exposure to unhealthy levels of air pollution contributes to acute and chronic respiratory problems such as asthma, Chronic Obstructive Pulmonary Disease, and other lung diseases. A recent national report, Asthma Capitals 2019, ranked New Haven (#11) and Hartford (#13) among the 100 largest U.S. cities where it is most challenging to live with asthma."

16. And now the Siting Council is considering whether to add even more emissions and unhealthy conditions to that area. The poor quality of the air in that area and the exponentially

disproportionately higher ER visits and hospitalization rates should be more than enough to reject the proposed project. No additional emissions should be placed upon the residents of the area.²

17. “Climate change poses an existential threat to humanity.” William Tong, *State of Connecticut v. Exxon Mobil Corp.*, HHD-CV20-6132568-S (Conn. Sup. Ct. filed Sept. 14, 2020) No. 100.31 at P1. Connecticut is already suffering from “sea level rise, flooding, drought, increases in extreme temperatures and severe storms, decreases in air quality, contamination of drinking water, increases in the spread of diseases, and severe economic consequences.” *Id.* at P17. “[C]limate change will continue to have increasingly serious, life-threatening, and financially burdensome impacts on the people of Connecticut and the lands, waters, coastline, species, natural resources, critical ecosystems, infrastructure and other assets owned by the State and its political subdivisions.” *Id.* at P23. “Credible scientific evidence indicates-especially considering recent extreme weather events-that the catastrophic effects of climate change are occurring sooner than anticipated.” *Id.* at P172. “Climate change has negatively impacted, is negatively impacting, and will continue to negatively impact Connecticut's people, lands, waters, coastline, infrastructure, fish and wildlife, natural resources, critical ecosystems, and other assets owned by or held in the public trust by the state of Connecticut and/or its municipalities.” *Id.* at 173. “Climate change has caused, is causing, and will cause sea level rise, flooding, drought, an increase in extreme temperatures, a decrease in air quality, an increase in severe storms, contamination of drinking water, and an increase in certain disease-transmitting species.” *Id.* at 174. “As a result of the

² Hartford Courant, May 25, 2021, *Opinion: Like COVID-19, air pollution is devastating to communities of color; cleaner air can help fix health disparities*, <https://www.courant.com/opinion/op-ed/hc-op-ctequity-clean-air-gas-tax-20210525-kzpgvvijisd5dlxiqo2c6dwgky-story.html>.

negative impacts on Connecticut's environment, climate change has caused, is causing, and will cause an increase in illness, infectious disease and death.” *Id.* at 175. “As a result of the negative impacts on Connecticut's environment, climate change has caused, is causing, and will cause serious damage to existing infrastructure, including but not limited to coastal and inland development, roadways, railways, dams, water and sewer systems, and other utilities.” *Id.* at 176. “As a result of the negative impacts on Connecticut's environment, climate change has caused, is causing, and will cause serious detrimental economic impacts on the State of Connecticut, its people, businesses and municipalities, including but not limited to heat-related productivity losses, increased energy cost and consumption, and agriculture, tourism, and recreation losses.” *Id.* at 177.

18. Yet the petitioner wants to bring more of the same adverse effects to Connecticut. Despite overwhelming scientific data that the current pace of human-caused carbon emissions is increasingly likely to trigger irreversible damage to the planet,³ a situation described by NASA scientists as the equivalent of a “five-alarm fire” for the planet, *id.*, entities like the petitioner continue to seek to build new climate and health destroying projects, such as the proposed Project.

19. The adverse health impacts of the petitioner’s project would be felt especially hard by children. At a White House Press Briefing earlier this year, Special Presidential Envoy for Climate John Kerry, stated that climate destruction from fossil fuel use is “the greatest cause of children being hospitalized every summer in the United States—we spent \$55 billion a year on it—is environmentally induced asthma.”

20. Natural gas generation projects, including fuel cells, should not be in any area where there are people or schools nearby. The proposed project creates a substantial adverse

³ “Major new climate study rules out less severe global warming scenarios...” Washington Post, July 22, 2020, <https://www.washingtonpost.com/weather/2020/07/22/climate-sensitivity-co2/>.

environmental effect. In addition to VOC emissions and the creation of hazardous wastes, the project would on a per mega-watt-hour basis add as much CO2 emissions as a natural gas power plant, and like such power plants, create more demand for fracking and the methane that is released from such activities, which is 80 times more destructive than ordinary CO2. *See, Fracking boom tied to methane spike in Earth's atmosphere* (August 15, 2019), <https://www.nationalgeographic.com/environment/article/fracking-boom-tied-to-methane-spike-in-earths-atmosphere>.

21. Despite overwhelming scientific data that the current pace of human-caused carbon emissions is increasingly likely to trigger irreversible damage to the planet,⁴ a situation described by NASA scientists as the equivalent of a “five-alarm fire” for the planet, *id.*, entities like the project proponent continue to seek to build new climate and health destroying projects, such as the proposed project.

22. The Siting Council should not approve the continuing poisoning of residents of the area or the continued destruction of the environment through the use of the proposed project.

23. The Project will increase the amount of fossil fuel use than there otherwise would be, accelerating climate change, jeopardizing the continued existence of any threatened or endangered species and resulting in the acceleration of the destruction or adverse modification of the critical habitat of such species.

24. In RESPONSE TO COUNCIL INTERROGATORIES – SET 3, R45, Docket 1406, Doosan provided the following chart:

⁴ “*Major new climate study rules out less severe global warming scenarios...*” Washington Post, July 22, 2020, <https://www.washingtonpost.com/weather/2020/07/22/climate-sensitivity-co2/>.

Table 1: CT Emissions Standards for a New Distributed Generator

Air Pollutant	CT Emissions Standard (lbs/MWh)	PureCell Model 400 Fuel Cell System at Rated Power (lbs/MWh)
Oxides of Nitrogen	0.15	.02
Carbon Monoxide	1	.01
Carbon Dioxide	1650	998

25. “EPA’s Emissions and Generation Resource Integrated Database (eGRID), released in 2018 with 2016 data, shows that at the national level, natural gas units have an average emission rate of 898 pounds CO₂ per megawatt-hour (MWh).” See, https://www.epa.gov/sites/production/files/2020-12/documents/power_plants_2017_industrial_profile_updated_2020.pdf, <https://www.epa.gov/energy/emissions-generation-resource-integrated-database-egrid>.

26. Earth’s climate is now changing faster than at any point in the history of modern civilization, primarily as a result of human activities. The impacts of global climate change are already being felt in the United States and are projected to intensify in the future—but the severity of future impacts will depend largely on actions taken to reduce greenhouse gas emissions. See, Climate Report,⁵ Vol. II, Overview at 2 and the *IPCC Special Report*.⁶

⁵ *Fourth National Climate Assessment* (the “Climate Report”) published by the United States Global Change Research Program and the United States Government Printing Office pursuant to the Global Change Research Act of 1990, judicial notice of which is requested. The full report is available at <https://nca2018.globalchange.gov/> (last visited September 30, 2019), USGCRP, 2018: *Impacts, Risks, and Adaptation in the United States: Fourth National Climate Assessment, Volume II* [Reidmiller, D.R., C.W. Avery, D.R. Easterling, K.E. Kunkel, K.L.M. Lewis, T.K. Maycock, and B.C. Stewart (eds.)]. U.S. Global Change Research Program, Washington, DC, USA. [doi:10.7930/NCA4.2018](https://doi.org/10.7930/NCA4.2018).

⁶ Intergovernmental Panel on Climate Change (IPCC) (“IPCC Special Report”): “*Global Warming of 1.5°C. An IPCC Special Report on the impacts of global warming of 1.5°C above pre-industrial levels and related global greenhouse gas emission pathways, in the context of strengthening the*

27. Changing climate threatens the health and well-being of people in the Northeast through more extreme weather, warmer temperatures, degradation of air and water quality, and sea level rise. These environmental changes are expected to lead to health-related impacts and costs, including additional deaths, emergency room visits and hospitalizations, and a lower quality of life. Health impacts are expected to vary by location, age, current health, and other characteristics of individuals and communities. *See*, Climate Report, Vol. II, Ch. 18, at 117 and the *IPCC Special Report*.

28. The continued use of fossil fuels endangers the public health, safety and welfare of Connecticut and the Northeastern United States. *See*, Climate Report, Vol. II, Ch. 18, at 117 and the *IPCC Special Report*. The continued injection of carbon-dioxide into the atmosphere from fossil-fuel electricity production harms the public health, safety and welfare. *See, e.g.*, Climate Report Chapter 14, KM1 and KM2:

The health and well-being of Americans are already affected by climate change, with the adverse health consequences projected to worsen with additional climate change. Climate change affects human health by altering exposures to heat waves, floods, droughts, and other extreme events; vector-, food- and waterborne infectious diseases; changes in the quality and safety of air, food, and water; and stresses to mental health and well-being.... People and communities are differentially exposed to hazards and disproportionately affected by climate-related health risks. Populations experiencing greater health risks include children, older adults, low-income communities, and some communities of color.

29. Reducing greenhouse gas emissions would benefit the health of Americans in the near and long term. By the end of this century, thousands of American lives could be saved and hundreds of billions of dollars in health-related economic benefits gained each year under a

global response to the threat of climate change, sustainable development, and efforts to eradicate poverty,” judicial notice of which is requested. The full report is available at <https://www.ipcc.ch/sr15/> (last visited September 30, 2019).

pathway of lower greenhouse gas emissions. *See*, Climate Report, Chapter 14, KM4 and the *IPCC Special Report*. “Current and future emissions of greenhouse gases, and thus emission mitigation actions, are crucial for determining future risks and impacts of climate change to society.... Climate change is projected to significantly damage human health, the economy, and the environment in the United States, particularly under a future with high greenhouse gas emissions.... Research supports that early and substantial mitigation offers a greater chance of avoiding increasingly adverse impacts.” Climate Report, Chapter 29 at 1348.

30. For all those reasons and more, the construction and operation of the Project is reasonably likely to have the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state.

31. All that is required for Allco to be entitled to intervene is that it make a colorable claim of conduct that would result in harm to the environment. *Burton v. Comm'r of Env'tl. Prot.* 291 Conn. 789, 804 (2009) (“[a]lthough it is true, of course, that the plaintiff need not prove [his or her] case at this stage of the proceedings . . . the plaintiff nevertheless must articulate a colorable claim of unreasonable pollution, impairment or destruction of the environment.”)

32. “A colorable claim is one that is superficially well founded but that may ultimately be deemed invalid For a claim to be colorable, the [person] need not convince the trial court that he necessarily will prevail; he must demonstrate simply that he *might* prevail.” *In re Santiago G.*, 325 Conn. 221, 231 (2017) (internal citations and quotations omitted.)

33. Allco easily meets that standard. Fossil fuels are destroying the planet and as explained above the Project will accelerate the destruction of the climate, and result in a raft

of adverse economic, adverse health, and adverse environmental consequences.

34. The area of the Project is an environmental justice community, which has some of the highest rates of asthma in Connecticut.

35. Moreover, the benzene and other hazardous emissions are additionally an unreasonable pollution, impairment or destruction of the environment.

36. Allco has clearly established a colorable claim in this verified pleading that the construction and operation of the Project is reasonably likely to cause unreasonable pollution, impairment or destruction of the environment.

37. Copies of all materials should be provided via electronic mail to the following:

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Conclusion

38. For the reasons stated above, Allco Renewable Energy Limited respectfully moves to be a participant in these proceedings.

STATE OF NEW YORK)
COUNTY OF NEW YORK) SS.:

Sworn to before me this 21st day
of June 2021

Josephine Kasuto
Notary Public



Thomas Melone
Thomas Melone