



**Written Testimony of the Connecticut Siting Council  
Submitted to the Environment Committee**

**In Reference to Raised Bill No. 5456**

**An Act Concerning Local Representation on the Connecticut Siting Council and the Language of Property  
Owner Notices for Certain Facility Applications**

**March 16, 2018**

Good afternoon Senator Kennedy, Senator Miner, Representative Demicco, ranking and distinguished members of the Environment Committee. Thank you for the opportunity to provide testimony in connection with Raised Bill No. 5456.

The Connecticut Siting Council (Council) was established in 1972 with the legislative purpose to end ad hoc town-by-town regulation of energy and telecommunications infrastructure in favor of regulation by a statewide body. The Council's charge is to provide for the balancing of the need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state through a quasi-judicial administrative process. Under the Public Utilities Environmental Standards Act, the Council has exclusive jurisdiction over the construction, operation and maintenance of electric transmission lines, fuel transmission lines, electric generating facilities, electric substations and telecommunications towers.

**Section 1** of this bill proposes to add an elector from each municipality in which a facility proposed by an electric distribution company is to be located as a nonvoting member of the Council. The Council opposes this proposal for several practical and legal reasons, including, but not limited to, the following:

1. The Council has continuously consisted of a **former Mayor or First Selectman voting member** and voting members that have either served on municipal commissions and/or served as municipal employees.
2. **Council members that reside in a town where a facility is proposed to be located recuse themselves from the proceedings to avoid even the appearance of bias, partiality, predetermination and/or impropriety.** Intentionally placing a non-voting member on the Council from the town where a facility is proposed to be located creates the appearance of bias, partiality, predetermination and/or impropriety.
3. **Off the record communications with a voting member of the Council or its staff is prohibited by law.** No person who has a direct or indirect interest in the outcome of a case, shall communicate, directly or indirectly, in connection with any issue in that case, with any member of the agency, or with any employee or agent of the agency assigned to assist the members of the agency in such case, without notice and opportunity for all parties to participate in the communication.<sup>1</sup> Non-voting member off the record communications with a voting member or a member of the staff could constitute ex parte communications.
4. **Towns have an absolute right to participate in Council proceedings as a party with rights to an appeal.** The state Uniform Administrative Procedure Act requires a quasi-judicial process to protect the rights of persons, such as towns, whose substantial rights may be impacted by a decision of an administrative agency, such as the Council. Parties have rights to submit evidence, cross examine witnesses and appeal.

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<sup>1</sup> Conn. Gen. Stat. §4-181.

5. **Electric transmission lines generally traverse multiple towns.** In 2003, the Council received an application for an electric transmission line that traversed 18 towns with alternative routes that would traverse 4 additional towns and 2 towns within 2500 feet of the proposal. It appears this bill would require non-voting member electors from 24 towns, increasing the Council membership for that particular matter to 33.
6. **Applicants are required by law to consult with the municipality where a facility is proposed to be located before submitting an application to the Council.** The consultation shall include, but not be limited to good faith efforts to meet with the chief elected official of the municipality and to provide the chief elected official with any technical reports concerning the public need, the site selection process and the environmental effects of the proposed facility. The municipality may conduct public hearings and meetings as it deems necessary for it to advise the applicant of its recommendations concerning the proposed facility.<sup>2</sup>
7. Communications between the voting members of the Council and their attorneys on the substance of a matter or on the legal strategy for a matter are privileged and confidential.

Furthermore, this proposal also raises practical and legal questions, including, but not limited to:

1. Who would be the appointing authority of the non-voting municipal Council member?
2. Would the non-voting municipal Council member be compensated and insured by the state?
3. Would the non-voting municipal Council member receive confidential attorney-client communications?
4. Would the non-voting municipal Council member be considered a client of the agency's counsel?
5. Could the non-voting municipal Council member appeal the Council's final decision?

Finally, as written, this bill only applies to applications submitted by Eversource and UI since the definition of "electric distribution company" exempts members of the Connecticut Municipal Electric Energy Cooperative and the Wallingford Electric Division.

**Section 2** of this bill proposes to add language that any notice provided to abutting property owners be "written in layman's terms." This is not defined. However, the existing statutory language that precedes the proposed change specifies precisely what information is to be included in the notice, as follows:

Such notice shall (A) be provided on a separate enclosure with each customer's monthly bill for one or more months, (B) be provided by the electric distribution company not earlier than sixty days prior to filing the application with the council, but not later than the date that the application is filed with the council, and (C) include: A brief description of the project, including its location relative to the affected municipality and adjacent streets; a brief technical description of the project including its proposed length, voltage, and type and range of heights of support structures or underground configuration; the reason for the project; the address and a toll-free telephone number of the applicant by which additional information about the project can be obtained; and a statement in print no smaller than twenty-four-point type size stating "NOTICE OF PROPOSED CONSTRUCTION OF A HIGH VOLTAGE ELECTRIC TRANSMISSION LINE".

Thank you again for the opportunity to provide testimony on this proposal. Should you have any questions or seek additional information, please feel free to contact Melanie Bachman at the Council's office at 860-827-2951 or [Melanie.Bachman@ct.gov](mailto:Melanie.Bachman@ct.gov).

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<sup>2</sup> Conn. Gen. Stat. §16-50l(e).