

# Connecticut Siting Council



## *At a Glance*

### **Connecticut Siting Council**

**ROBERT STEIN, *Chairman***

**Melanie A. Bachman, *Acting Executive Director***

***Established - 1971***

***Statutory authority - Chapter 54, Chapter 277a, Chapter 445***

***Central office - Ten Franklin Square, New Britain, CT 06051***

***Number of employees - 9***

***Recurring operating expenses - \$2,407,095.66***

## **Organizational Structure**

The Connecticut Siting Council (Council) is an administrative agency within the Department of Energy and Environmental Protection (DEEP) for administrative purposes only. The Council does not receive its operating revenues from the State's General Fund. Its funding is generated from two sources: fees and costs attributable to the review and decision on applications, petitions for declaratory rulings and other jurisdictional requests for action and annual assessments charged to electric utilities, hazardous waste generators, telecommunications service providers and telecommunications facility service providers in Connecticut.

The Council consists of nine members – five members of the public appointed by the Governor, one member appointed by the President Pro Tempore of the Senate and one member appointed by the Speaker of the House. For energy and telecommunications matters, the additional two members of the Council are the Chairman of the Public Utilities Regulatory Authority (PURA) and the Commissioner of DEEP. For hazardous waste matters, the additional two members of the Council are the Commissioner of the Department of Public Health (DPH) and the Commissioner of the Department of Emergency Services and Public Protection (DESPP), as well as an additional four members, three of which are electors from the

municipality in which the proposed facility is to be located and one of which is an elector from a neighboring municipality most likely to be affected by the proposed hazardous waste facility.

The current members of the Council are as follows: Chairman, Robert Stein, Stamford; Philip T. Ashton, Meriden; James J. Murphy, Jr., Stonington; Michael W. Klemens, Ph.D., Salisbury; Eileen M. Daily, Westbrook, retired from the Council on December 10, 2014 (this appointment is currently vacant); Daniel P. Lynch, Enfield; Barbara Currier Bell, Ph.D., Milford, retired from the Council on July 31, 2015 (this appointment is currently vacant); Robert Klee, Commissioner of DEEP; Arthur House, Chairman of PURA; Jewel Mullen, Commissioner of DPH; and Dora B. Schriro, Commissioner of DESPP. The Council's chief administrative officer is an executive director who reports to the Chairman.

## **Mission**

*The Council objectively balances the statewide public 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 as it relates to the construction, maintenance and operation of jurisdictional facilities, including electric and fuel transmission lines; electric substations and switchyards; electric generating or storage facilities; community antenna television towers including head-end structures, telecommunications towers and hazardous waste facilities.*

## **Statutory Responsibility**

The Council operates under the Uniform Administrative Procedure Act (UAPA), Public Utility Environmental Standards Act (PUESA) and Sections of Title 22a of the Connecticut General Statutes relating to environmental protection for the siting of hazardous waste facilities. The Council has jurisdiction over the construction, maintenance and operation of electric transmission lines with a capacity of 69 kilovolts or more, fuel transmission lines with a design capability of more than 200 pounds per square inch gauge pressure, electric generating or storage facilities using any fuel, electric substations or switchyards designed to regulate the voltage of electricity at 69 kilovolts or more, community antenna television towers and head-end structures, telecommunications towers owned or operated by the state, a public service company or used in a cellular system, and hazardous waste facilities in conjunction with DEEP.

In addition to siting facilities, every five years, the Council must investigate and determine the life cycle costs of electric transmission lines and on a biennial basis, the Council must compile and publish a report of statewide electric loads and resources covering a ten year forecast period. The Life Cycle Analysis Report and the Forecast of Electric Loads and Resources are uncontested case proceedings that are open to public participation and the final reports are published and available for public inspection on the Council's website. The Council also provides dispute resolution for real property condemnation for energy facilities and for the sharing of telecommunications towers.

Operating under the PUESA and the UAPA ensures that the participants and the public are afforded due process in contested case proceedings held on applications for certificates and petitions for declaratory rulings relative to proposed jurisdictional facilities. Telecommunications matters are also governed by the Federal Communications Commission through the Telecommunications Act of 1996, which prohibits the Council from considering the health effects of radio frequency emissions on human health and wildlife to the extent the emissions from towers are within the federal acceptable safe limits standard, and prohibits the Council from discriminating between and amongst providers of functionally equivalent services. Furthermore, the federal Middle Class Tax Relief and Job Creation Act of 2012 further limits the Council from denying an “Eligible Facilities Request” for the modification of existing telecommunications facilities that do not substantially change the physical dimensions of the existing telecommunications facilities.

Applicants, petitioners and the public benefit from the standardization and transparency of the processes, the knowledge and experience of the Council members appointed and the staff hired to review the filings. Applicants, petitioners and the public also benefit from the centralization and availability of information regarding matters pending before the Council. The reports, databases, and related information compiled and published by the Council provide ratepayers, industry and the public with access to documented material, including, but not limited to, electric and magnetic fields, costs and life expectancies of transmission lines, estimated electric supply and demand, telecommunications coverage, and antenna locations within the state of Connecticut.

## **Public Service**

To provide open and transparent information to the public and stakeholders relative to its jurisdiction, the Council continues to expand the content of its website, <http://www.ct.gov/csc>. The Council posts and periodically updates several databases and other relevant information on the website relative to telecommunications facilities in the state. In addition, agency publications, standard administrative documents and agency filing procedures and forms are available to download from the website.

The agency continually measures its efficiency and effectiveness through public statements, memoranda of law and informal comments received from its own staff, other state agencies, regional organizations, environmental groups and the public at large. The Council refines its service through recommendations provided by the State Auditors of Public Accounts and legislative committees, as well as through recommendations and suggestions from members of the public regarding content and presentation of information on the website. In addition, the Council reviews and compares different processes and procedures used by other state agencies throughout the country.

## **Improvements/Achievements for Fiscal Year 2014-2015**

In Fiscal Year 2014-2015, the Council received 11 new applications for Certificates of Environmental Compatibility and Public Need (Certificate), reopened 1 Certificate under Conn. Gen. Stat. Sec. 4-181a (b), and held 25 public hearing sessions to develop substantial evidentiary records and hear public concerns regarding facilities proposed for construction within their communities. The Council also held 21 energy and telecommunications meetings at which the Council considered and decided the matters before it.

Also during Fiscal Year 2014-2015, the Council ruled on 58 petitions for declaratory rulings for electric generators, electric substations, electric and fuel transmission lines, and telecommunications facilities. The Council issued Certificates for 6 new telecommunications facilities and 1 modified Certificate for an electric generating facility. The Council acted on 9 Development and Management Plans to ensure compliance with its orders. Furthermore, the Council inspects all facilities during and after completion of construction to ensure compliance. The Council also reviewed and acted upon 581 modifications of existing telecommunications facilities, 15 modifications of existing energy facilities, and 11 requests for tower sharing at existing telecommunications facilities.

In May 2014, the Council initiated a Statewide Telecommunications Tower Audit due to a high volume of cellular technology upgrades at existing tower sites. This audit has positively impacted the accuracy of the Council's Statewide Telecommunications Database relative to a complete list of users and their associated equipment on a particular tower. Additionally, the audit has resulted in complete information regarding structural integrity and the provision of technology upgrades for telecommunications facilities in the state. The Council's Statewide Telecommunications Database is posted on the Council's website, updated on a biweekly basis and accessible to the public.

In September 2014, the Connecticut Supreme Court upheld the Council's decision to approve two utility-scale wind projects located in Colebrook in the case of *FairwindCT, Inc. v. Connecticut Siting Council*. The Court's decision set very important precedent for the Council. First, the decision established that wind is a fuel and it is more rational to conclude that the legislature's intent in the definition of "electric generating facility" was to have the Council have jurisdiction over all electric generating plants regardless of how the facility is fueled. Second, the decision established that the Council may impose conditions of approval that require project developers to include post-approval, updated plans to ensure ongoing compliance. Third, the decision established that the Council is not required to give any consideration to other state laws, but may give such consideration to other state laws as the Council shall deem appropriate. Finally, the decision established that it is not unconstitutional for the Council, in good faith, to balance its statutory time constraints against a party's desire for more time to present their

objections to a proposal. Connecticut's first utility-scale wind project on Flagg Hill Road in Colebrook is currently under construction.

In January 2015, the Council, on its own motion, voted to approve a sub-petition filing procedure for Eligible Facilities Requests for existing telecommunications facilities submitted under the Federal Communications Commission (FCC) rules adopted pursuant to the October 21, 2014 FCC Wireless Infrastructure Report and Order. This sub-petition process streamlines the review and approval of Eligible Facilities Requests ensuring compliance with the FCC 60-day decision deadline. Similarly, in May 2015, the Council approved a sub-petition process for all Eversource Energy and the United Illuminating Company transmission substation remediation activities to comply with the North American Electric Reliability Corporation (NERC) Reliability Standards for Physical Security. This sub-petition process streamlines the review and approval of physical security measures to ensure there is adequate Critical Infrastructure Protection throughout the state.

The Council maintains its practice of posting the complete record of every contested case proceeding on its website. During fiscal year 2014/15, the Council expanded its Pending Proceedings Page on the website to include petitions for declaratory rulings and requests for tower share filings that are placed on the Council's regularly scheduled energy/telecommunications meetings for decision. The full filings, as well as any subsequent information that is filed relative to a pending petition or tower share request, are accessible on the respective webpages. In addition to greater transparency of Council proceedings, this practice provides greater efficiency to all interested parties, reduction of costs and convenient access to information.

The Council took part in a LEAN initiative in 2012 with a main objective to reduce paper and postage costs. The Council exceeded its goal of 50% paper reduction. Paper reduction progress will continue to be made with the implementation of a long-term goal of using an e-filing and e-payment system. The Council continues to review and update Technical and Administrative Standard Operating Procedures developed last fiscal year, as well as the standardized format for pages on the website to create a user-friendly atmosphere.

The Council continuously researches and reviews the latest technological advancements throughout the energy and telecommunications industries it regulates in order to assure the welfare and protection of the citizens of the state. The Council also seeks new opportunities to educate itself and its staff in such advancements and developments so as to anticipate, address and balance the ever-changing needs and demands of the energy and telecommunications industries and the public.

## **Information Reported as Required by State Statute**

All certification proceedings are conducted as contested cases pursuant to the UAPA and PUESA, and include public hearings held in the host municipality for the convenience of the public. The Council invites full participation by members of the public, state and local representatives, non-profit groups, environmental protection groups, and parties and interveners to the proceedings, to ensure all interested persons have notice and an opportunity to be heard.

Conn. Gen. Stat. Sec. 16-50r (b) requires that the Council undertake an effort to update its investigation into the life-cycle costs of electric transmission lines every five years. The Council's last report was issued and posted to the Council's website on November 15, 2012. The next investigation into the life cycle costs of electric transmission lines will occur in Fiscal Year 2017-2018.

Conn. Gen. Stat. Sec. 16-50// requires each provider of commercial mobile radio service to submit an annual report to the Council and DESPP concerning each provider's ability to provide backup power for telecommunications towers and antennas during an electric service outage. The Council began requesting the submission of annual backup power reports on October 1, 2013 and providers of commercial mobile radio service have complied.

Pursuant to Conn. Gen. Stat. Sec. 16-50r, the Council is required to hold a public hearing on forecast of electric loads and resources filed annually by every person engaged in electric transmission services, electric generation services and electric distribution services. On January 10, 2014, the Council issued a full report for the 2012/13 Ten-Year Forecast of Electric Loads and Resources. This forecast report assesses the overall status of loads and resources in the state, taking into consideration historical trends, the projected outlook of load and demand, and the effectiveness of conservation and load management programs. In order to reduce expenses associated with the printing and designing of this report from outside sources and to encourage environmentally friendly efforts, the forecast report is available on the Council's website. Although the report is issued every odd year, in order to fulfill the statutory requirement of Conn. Gen. Statutes Sec. 16-50r, the Council held its annual public hearing on the 2014/15 Ten-year Forecast of Electric Loads and Resources on June 24, 2014 at 6:30 PM for the convenience of the public. A full report will be compiled in 2015, with the annual public hearing scheduled for September 24, 2015.

On February 6, 2014, the Council adopted an update of its Statewide Telecommunications Coverage Plan. Pursuant to Conn. Gen. Stat. Sec.16-50ee, the Council is required to develop a plan for statewide telecommunications coverage and to review the plan annually. The plan assesses population growth in the state and an analysis of existing and projected demands for telecommunications coverage. This plan is available for public inspection on the Council's website.

Pursuant to Conn. Gen. Stat. Sec. 16-50t(c), on February 20, 2014, the Council revised its Electric and Magnetic Fields Best Management Practices for the Construction of Electric Transmission Lines in Connecticut. The revised Best Management Practices are available for public inspection on the Council's website.