



State of Connecticut -- Dept. of Environmental Protection
Gina McCarthy, Commissioner
www.ct.gov/dep



<http://www.ct.gov/csc/site/default.asp>

The Connecticut Siting Council

INTRODUCTION

- 1972 the Public Utility Environmental Standards Act established the Power Facility Evaluation Council
- 1981 Public Act 81-369 changed the name of the Power Facility Evaluation Council to the Connecticut Siting Council and expanded the Council's original jurisdiction over the siting of power facilities and transmission lines to include hazardous waste facilities
- Since 1981 the Council's jurisdiction has been extended to include various other forms of infrastructure including telecommunications sites
- The Connecticut Siting Council is supported by ten employees and an Executive Director
- The Connecticut Siting Council is made up of nine members for energy and telecommunications and ash residue disposal area issues; and thirteen members for hazardous waste and low-level radioactive waste issues
 - o Energy and Telecommunications Membership: five appointed by the Governor including the chairperson, one appointed by the Speaker of House, one appointed by the President Pro-tempore of the Senate, the chairperson of the Department of Public Utility Control, and the commissioner of the Department of Environmental Protection. By statute, at least two Council members appointed by the Governor shall be experienced in the field of ecology and not more than one member shall have an affiliation with any utility, government utility regulatory agency, or facility under the Council's jurisdiction
 - o Ash Residue Disposal Areas: five appointed by the Governor including the chairperson, one member appointed by the Speaker of House, one appointed by the President Pro-tempore of the Senate, the commissioner of the Department of Public Safety, and the commissioner of the Department of Public Health
 - o Hazardous Waste and Low-Level Radioactive Waste: five appointed by the Governor including the chairperson, one appointed by the Speaker of House, one appointed by the President Pro-tempore of the Senate, the commissioner of the Department of Public Safety, the commissioner of the Department of Public Health, three ad-hoc members of the site municipality (appointed by the chief elected official of the municipality), and one ad-hoc member of the neighboring municipality of the site (appointed by the chief elected official of that municipality)

- The Council is responsible for:
 - o balancing 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 and to minimize damage to scenic, historic, and recreational values;
 - o providing environmental standards for the location, design, construction, and operation of public utility facilities that are at least as stringent as federal environmental standards and that are sufficient to assure the welfare and protection of the people of Connecticut;
 - o encouraging research to develop new and improved methods of generating, storing, and transmitting electricity and fuel and of transmitting and receiving television and telecommunications signals with minimal damage to the environment;
 - o promoting the sharing of telecommunications towers in order to avoid their unnecessary proliferation; and
 - o requiring annual forecasts of the demand for electricity together with the planning for facilities needed to supply the predicted demand.
- Relevant matters that do not fall under the jurisdiction of the Siting Council fall under the Connecticut Department of Public Utility Control (DPUC)
 - o The Council differs from the Department of Public Utility Control in that the DPUC establishes the rates of utilities. The DPUC, an arm of the executive branch of state government, derives its authority from Title 16 of the Connecticut General Statutes. Its purpose is to ensure that utility customers receive adequate service at reasonable rates and that the utility companies are operating efficiently.
- The Council does not receive its operating revenues from the state's General Fund. Its funding is generated from two discrete sources - fees and costs attributable to applications received and annual assessments charged to electric utilities, hazardous waste generators, and telecommunications providers in Connecticut
- The Council confirms compliance with its certificates and orders through detailed development and management plans and field investigations. Development and management plans are professionally engineered documents that may consist of designs, site plans, construction schedules, and site inspection reports
- Enforcement of Council orders is performed by the Connecticut Attorney General's office.

JURISDICTION

- The Council has exclusive jurisdiction over the siting and the construction of all power generation including electric utility infrastructure, electric transmission lines, gas transmission, public utility infrastructure, radioactive waste, ash residue, etc.

- The Council's jurisdiction can be found in the Connecticut General Statutes Title 16, Chapter 277a
 - o Energy Proceedings (*CT General Statutes 16-50i et. seq.*)
 - Electric transmission lines 69-kV or above
 - Fuel transmission lines of 200 PSIG or above
 - Electric generating or storage facilities excluding emergency generating devices, cogeneration facilities of 25 MW or less, and facilities fueled by renewable energy sources of 1 MW or less
 - Electric substation or switchyards of 69-kV or above
 - o Telecommunications Proceedings (*CT General Statutes 16-50i et. seq*)
 - CATV towers and head-end structures, including associated equipment
 - Telecommunications towers owned or operated by the State, a public service company, intrastate telecommunications service providers, or used in a cellular system
 - o Hazardous Waste Proceedings (*CT General Statutes 22a-115 et. seq*)
 - Hazardous waste facilities
 - o Low-Level Radioactive Waste Proceedings (*CT General Statutes 22a-163a et. seq*)
 - Low-Level radioactive waste facility
 - o Ash Residue Proceedings (*CT General Statutes 22a-208b and 22a-285g et. seq*)
 - Ash residue disposal area arbitration and negotiation.
 - o Electric Forecast of Loads and Resources (*CT General Statutes 16-50r (a)*)
 - Annual review of loads and resources by the electric generating industry of the State
 - o Property Condemnation (*CT General Statutes 16-50z (c)*)
 - Dispute resolution for real property condemnation.

MUNICIPAL INVOLVEMENT

- Town involvement, a number of opportunities exist:
 - o CGS section 16-50f: Prior to applicant filing an application for a certificate with the Siting Council the applicant shall serve a copy of such application on the chief

executive officer of the municipality and shall include notice of the date on or about which the application is to be filed, as well as serve the zoning commission, planning and zoning commission, conservation commission, inland wetlands agency, regional planning agencies, etc. Applicant must notify the municipality at least sixty days prior to the filing of an application with the council, and the applicant shall consult with the municipality. Such consultation with the municipality shall include, but not be limited to good faith efforts to meet with the chief elected official of the municipality. The municipality may conduct public hearings and meetings, as it deems necessary. Within sixty days of the initial consultation, the municipality shall issue its recommendations to the applicant.

- CGS section 16-50x: In ruling on applications for certificates or petitions for a declaratory ruling for facilities or on requests for shared use of facilities, the Council shall give such consideration to other state laws and municipal regulations as it shall deem appropriate.
- CGS section 16-50x: Town inland wetlands agency retains the "regulate and restrict" authority and may make such an order to the Council. To do so town has no more than sixty-five days after an application has been filed with the Council, or no more than 30 days after an application has been filed with the Council, depending on the facility being sited. The order is merely "advisory" and is not intended to bypass the Council's authority. The Council will affirm, modify or revoke such order or make any order in substitution thereof by a vote of six members of the council.
- Upon receipt of an application the Siting Council sends letter to town inviting them to "get involved", regardless of whether a town "consulted" with such applicant or not, and regardless of whether a town makes an order or not. Town's comments are placed on such application's record.
- Town may become a party or intervenor in proceedings
 - Party/Intervenor status: One who participates as a party or intervenor benefits from more in-depth participation but also holds greater responsibility in the hearing process. In order to become a party or intervenor in a proceeding one must file an application for Council review. After reviewing the application the Council will either grant or deny the application. The application to seek party/intervenor status may be obtained from the Council website.
 - Although legal representation is not required in order to gain and utilize such status, it is strongly encouraged. Details for participating as a party/intervenor is available from the Council website.
- Towns need to be proactive, make sure their concerns are on the Siting Council's record for a particular application
- Maintenance work such as a culvert repair is exempt from filing for certificate and receives a declaratory ruling, towns have no formal say in the matter. However, the Council expects the utility to cooperate with the municipality
- Decisions of the Council are appealed to the Superior Court

Sec. 16-50l. Application for certificate. Notice. Application or resolution for amendment of certificate.

(a)(1) To initiate a certification proceeding, an applicant for a certificate shall file with the council an application, in such form as the council may prescribe, accompanied by a filing fee of not more than twenty-five thousand dollars, which fee shall be established in accordance with section 16-50t, and a municipal participation fee of twenty-five thousand dollars to be deposited in the account established pursuant to section 16-50bb, except that an application for a facility described in subdivision (5) or (6) of subsection (a) of section 16-50i shall not pay such municipal participation fee. An application shall contain such information as the applicant may consider relevant and the council or any department or agency of the state exercising environmental controls may by regulation require, including the following information:

(A) In the case of facilities described in subdivisions (1), (2) and (4) of subsection (a) of section 16-50i: (i) A description, including estimated costs, of the proposed transmission line, substation or switchyard, covering, where applicable underground cable sizes and specifications, overhead tower design and appearance and heights, if any, conductor sizes, and initial and ultimate voltages and capacities; (ii) a statement and full explanation of why the proposed transmission line, substation or switchyard is necessary and how the facility conforms to a long-range plan for expansion of the electric power grid serving the state and interconnected utility systems, that will serve the public need for adequate, reliable and economic service; (iii) a map of suitable scale of the proposed routing or site, showing details of the rights-of-way or site in the vicinity of settled areas, parks, recreational areas and scenic areas, residential areas, private or public schools, licensed child day care facilities, licensed youth camps, and public playgrounds and showing existing transmission lines within one mile of the proposed route or site; (iv) justification for adoption of the route or site selected, including comparison with alternative routes or sites which are environmentally, technically and economically practical; (v) a description of the effect of the proposed transmission line, substation or switchyard on the environment, ecology, and scenic, historic and recreational values; (vi) a justification for overhead portions, if any, including life-cycle cost studies comparing overhead alternatives with underground alternatives, and effects described in clause (v) of this subparagraph of undergrounding; (vii) a schedule of dates showing the proposed program of right-of-way or property acquisition, construction, completion and operation; (viii) identification of each federal, state, regional, district and municipal agency with which proposed route or site reviews have been undertaken, including a copy of each written agency position on such route or site; and (ix) an assessment of the impact of any electromagnetic fields to be produced by the proposed transmission line; and

(B) In the case of facilities described in subdivision (3) of subsection (a) of section 16-50i: (i) A description of the proposed electric generating or storage facility; (ii) a statement and full explanation of why the proposed facility is necessary; (iii) a statement of loads and resources as described in section 16-50r; (iv) safety and reliability information, including planned provisions for emergency operations and shutdowns; (v) estimated cost information, including plant costs, fuel costs, plant service life and capacity factor, and total generating cost per kilowatt-hour, both at the plant and related transmission, and comparative costs of alternatives considered; (vi) a schedule showing the program for design, material acquisition, construction and testing, and operating dates; (vii) available site information, including maps and description and present and proposed development, and geological, scenic, ecological, seismic, biological, water supply, population and load center data; (viii) justification for adoption of the site selected, including comparison with alternative sites; (ix) design information, including a description of facilities, plant efficiencies, electrical connections to the system, and control systems; (x) a description of provisions, including devices and operations, for mitigation of the effect of the operation of the facility on air and water quality, for waste disposal, and for noise abatement, and information on other environmental aspects; and (xi) a listing of federal, state, regional, district and municipal agencies from which approvals either have been obtained or will be sought covering the proposed facility, copies of approvals received and the planned schedule for obtaining those approvals not yet received.

(2) On or after December 1, 2004, the filing of an application pursuant to subdivision (1) of this subsection shall initiate the request for proposal process, except for an application for a facility described in subdivision (4),(5) or (6) of subsection (a) of section 16-50i and except for a facility exempt from such requirement pursuant to subsection (b) of section 16a-7c.

(3) Notwithstanding the provisions of this subsection, an entity that has submitted a proposal pursuant to the request for proposal process may initiate a certification proceeding by filing with the council an application containing the information required pursuant to this section, accompanied by a filing fee of not more than twenty-five thousand dollars, which fee shall be established in accordance with section 16-50t, and a municipal participation fee of twenty-five thousand dollars to be deposited in the account established pursuant to section 16-50bb, not later than thirty days after the Connecticut Energy Advisory Board performs the evaluation process pursuant to subsection (f) of section 16a-7c.

(b) Each application shall be accompanied by proof of service of a copy of such application on: (1) Each municipality in which any portion of such facility is to be located, both as primarily proposed and in the alternative locations listed, and any adjoining municipality having a boundary not more than two thousand five hundred feet from such facility, which copy shall be served on the chief executive officer of each such municipality and shall include notice of the date on or about which the application is to be filed, and the zoning commissions, planning commissions, planning and zoning commissions, conservation commissions and inland wetlands agencies of each such municipality, and the regional planning agencies which encompass each such municipality; (2) the Attorney General; (3) each member of the legislature in whose assembly or senate district the facility or any alternative location listed in the application is to be located; (4) any agency, department or instrumentality of the federal government that has jurisdiction, whether concurrent with the state or otherwise, over any matter that would be affected by such facility; (5) each state department, agency and commission named in subsection (h) of section 16-50j; and (6) such other state and municipal bodies as the council may by regulation designate. A notice of such application shall be given to the general public, in municipalities entitled to receive notice under subdivision (1) of this subsection, by the publication of a summary of such application and the date on or about which it will be filed. Such notice shall be published under the regulations to be promulgated by the council, in such form and in such newspapers as will serve substantially to inform the public of such application and to afford interested persons sufficient time to prepare for and to be heard at the hearing prescribed in section 16-50m. Such notice shall be published in not less than ten-point type. A notice of such an application for a certificate for a facility described in subdivision (3), (4), (5) or (6) of subsection (a) of section 16-50i shall also be sent, by certified or registered mail, to each person appearing of record as an owner of property which abuts the proposed primary or alternative sites on which the facility would be located. Such notice shall be sent at the same time that notice of such application is given to the general public. Notice of an application for a certificate for a facility described in subdivision (1) of subsection (a) of section 16-50i shall also be provided to each electric company or electric distribution company customer in the municipality where the facility is proposed to be placed. 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 company or 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".

(c) An application for a certificate shall contain information on the extent to which the proposed facility has been identified in, and is consistent with, the annual forecast reports and life-cycle cost analysis required by section 16-50r and other advance planning that has been carried out, and shall include an explanation for any failure of the facility to conform with such information.

(d) An amendment proceeding may be initiated by an application for amendment of a certificate filed with the council by the holder of the certificate or by a resolution of the council. An amendment application by a certificate holder shall be in such form and contain such information as the council shall prescribe. A resolution for amendment by the council shall identify the design, location or route of the portion of a certificated facility described in subdivisions (1) or (2) of subsection (a) of section 16-50i which is subject to modification on the basis of stated conditions or events which could not reasonably have been known or foreseen prior to the issuance of the certificate. No such resolution for amendment of a certificate shall be adopted after the commencement of site preparation or construction of the certificated facility or, in the case of a facility for which approval by the council of a right-of-way development and management plan or other detailed construction plan is a condition of the certificate, after approval of that part of the plan which includes the portion of the facility proposed for modification. A copy and notice of each amendment application shall be given by the holder of the certificate in the manner set forth in subsection (b) of this section. A copy and notice of each resolution for amendment shall be given by the council in the manner set forth in subsection (b) of this section. The council shall also provide the certificate holder with a copy of such resolution. The certificate holder and the council shall not be required to give such copy and notice to municipalities and the commissions and agencies of such municipalities other than those in which the modified portion of the facility would be located.

(e) Except as provided in subsection (e) of section 16a-7c, at least sixty days prior to the filing of an application with the council, the applicant shall consult with the municipality in which the facility may be located and with any other municipality required to be served with a copy of the application under subdivision (1) of subsection (b) of this section concerning the proposed and alternative sites of the facility. For a facility described in subdivisions (1) to (4), inclusive, of subsection (a) of section 16-50i, the applicant shall submit to the Connecticut Energy Advisory Board the same information that it provides to a municipality pursuant to this subsection on the same day of the consultation with the municipality. Such consultation with the municipality shall include, but not be limited to good faith efforts to meet with the chief elected official of the municipality. At the time of the consultation, the applicant shall 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. Within sixty days of the initial consultation, the municipality shall issue its recommendations to the applicant. No later than fifteen days after submitting an application to the council, the applicant shall provide to the council all materials provided to the municipality and a summary of the consultations with the municipality including all recommendations issued by the municipality.

(f) For purposes of this chapter, an application that is subject to the request for proposal process of section 16a-7c, shall be deemed to be a "preapplication" until the completion of the such request for proposal process. At the completion of the request for proposal process, such preapplication shall be considered an application. The requirements of this section shall apply to applications and reapplications.

Sec. 16-50x. Exclusive jurisdiction of council; exception. Eminent domain after certification.

Municipal regulation of proposed location. (a) Notwithstanding any other provision of the general statutes, except as provided in section 16-243, the council shall have exclusive jurisdiction over the location and type of facilities and over the location and type of modifications of facilities subject to the provisions of subsection (d) of this section. When evaluating an application for a telecommunication tower within a particular municipality, the council shall consider any location preferences or criteria (1) provided to the council pursuant to section 16-50gg, or (2) that may exist in the zoning regulations of said municipality as of the submission date of the application to the council. In ruling on applications for certificates or petitions for a declaratory ruling for facilities and on requests for shared use of facilities, the council shall give such consideration to other state laws and municipal regulations as it shall deem appropriate. Whenever the council certifies a facility pursuant to this chapter, such certification shall satisfy and be in lieu of all certifications, approvals and other requirements of state and municipal agencies in regard to any questions of public need, convenience and necessity for such facility.

(b) Whenever the council has certified a facility pursuant to this chapter, any person joining in the application for such certification shall be empowered to exercise its powers of eminent domain, granted by the general statutes or any special act, to acquire property for such facility for the benefit of all persons receiving such certificates.

(c) Whenever the council has certified a facility pursuant to this chapter and the applicant for such certificate thereafter initiates condemnation proceedings to acquire property for such facility, and it shall appear to the court or judge before whom such proceedings are pending that the public interest will be prejudiced by delay, said court or judge may direct that said applicant be permitted to enter immediately upon the property to be taken and devote it temporarily to the public use specified in the application instituting such proceeding upon the deposit with said court of a sum to be fixed by said court or judge, upon notice to the parties of not less than ten days, and such sum when fixed and paid shall be applied to the payment of any assessment of damages which may be made, with interest thereon from the date of such entry upon said property, and the remainder, if any, returned to said applicant. If such application is dismissed, no assessment of damages is made, or the proceedings are abandoned by said applicant, said court or judge shall direct that the money so deposited, so far as it may be necessary, shall be applied to the payment of any damages that the owner of said property or other parties in interest may have sustained by such entry upon and use of such property, including reasonable attorneys', engineers' and appraisers' fees and other reasonable expenses incurred by such owner or other parties in interest in connection with such proceedings, and the costs and expenses of such proceedings. Such damages shall be ascertained by said court or judge or a committee to be appointed for that purpose, and if the sum so deposited shall be insufficient to pay such damages and all costs and expenses so assessed, judgment shall be entered against said applicant for the deficiency to be enforced and collected in the same manner as a judgment in the Superior Court, and the possession of such property shall be restored to the owner or owners thereof.

(d) Any town, city or borough zoning commission and inland wetland agency may regulate and restrict the proposed location of a facility, as defined in subdivisions (3) and (4) of subsection (a) of section 16-50i. Such local bodies may make all orders necessary to the exercise of such power to regulate and restrict, which orders shall be in writing and recorded in the records of their respective communities, and written notice of any order shall be given to each party affected thereby. Such a local body shall make any such order (1) not more than sixty-five days after an application has been filed with the council for the siting of a facility described in subdivision (3) of subsection (a) of section 16-50i, or (2) not more than thirty days after an application has been filed with the council for the siting of

a facility described in subdivision (4) of subsection (a) of section 16-50i. Each such order shall be subject to the right of appeal within thirty days after the giving of such notice by any municipality required to be served with a copy of the application under subdivision (1) of subsection (b) of section 16-50l or by any party aggrieved to the council, which shall have jurisdiction, in the course of any proceeding on an application for a certificate or otherwise, to affirm, modify or revoke such order or make any order in substitution thereof by a vote of six members of the council.