



STATE OF CONNECTICUT

COUNCIL ON ENVIRONMENTAL QUALITY

VIA ELECTRONIC MAIL

September 28, 2023

Melanie Bachman, Executive Director
Connecticut Siting Council
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PETITION NO. 1591 - KCE CT 5, LLC petition for a declaratory ruling for the proposed construction, maintenance and operation of a 5.0-megawatt AC battery energy storage facility located at Village Hill Road, Stafford (Parcel No. 71-6) and Willington (Parcel No. 52-001-00), Connecticut, and associated electrical interconnection.

Dear Attorney Bachman,

The Council on Environmental Quality (Council) offers the following comments regarding Petition 1591.

1. Wildlife

The Petitioner notes that the United State Fish and Wildlife Service (USFWS) Information for Planning and Conservation (IPaC) system identified the Northern Long-eared Bat (NLEB) (*Myotis septentrionalis*, Endangered) and small whorled pogonia (*Isotria medeoloides*, Threatened) as species that may potentially occur in the project area. Further, the Petitioner states that “the IPaC report also notes that there is no Critical Habitat within the vicinity of the Project area”; however, the IPaC also notes that “You are still required to determine if your project(s) may have effects on all above listed species”, which includes the NLEB and small whorled pogonia. There is no information in the Petition to suggest that the Petitioner utilized the NLEB Rangewide Determination Key available in IPaC, consulted with the Department of Energy and Environmental Protection (DEEP) Wildlife Division, including the Natural Diversity Database (NDDDB), or conducted a survey of the proposed site for the presence of the federally listed species or suitable habitat. Consequently, the Council recommends that the Petitioner undertake a survey of the proposed site for the presence of roost trees for NLEB, and the presence of small whorled pogonia or suitable habitat.¹

2. Noise

The Petitioner notes that the nighttime sound level standard from an industrial source (Class C) at a residential zone (Class A) is 51 dBA and that the projected noise level from the project at a receptor (R12), located north of the proposed facility, would be 53 dBA, which exceeds the applicable standard. Notwithstanding the adjacent property owner’s acknowledgement that the proposed facility would exceed the applicable noise standard, Section 22a-69-3.1 of the Regulations of Connecticut State Agencies (RCSA) states that “**no person shall cause or allow the emission of excessive noise beyond the boundaries of his/her Noise Zone so as to violate any provisions of these Regulations.**” Further, Section 22a-69-7.1 of the RCSA notes that only the Commissioner of DEEP can provide a variance or partial variance for one or more provisions of the noise regulations. Consequently, the Council recommends that the Petitioner ensure

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that the proposed facility be in compliance with the noise regulations at all nearby properties, and especially those designated as Class A lands, which are defined as “residential areas where human beings sleep or areas where serenity and tranquility are essential to the intended use of the land.”²

3. Wetlands

The Council notes that Site Plans 2.1 depicts the “maximum anticipated tree clearing limit” to be within the 100-foot vegetated buffer of the wetland system on the proposed site. The Council recommends that the Petitioner 1) assess the possibility of relocating the proposed facility to the south and/or west to increase the distance from the proposed facility to the identified wetlands, and 2) maintain the vegetation within the 100-foot wetland buffer. The Council also recommends that the Petitioner consider utilizing updated methods and techniques for minimizing erosion and sedimentation based on the best currently available technology and strategies, as identified in DEEP’s draft Soil Erosion & Sediment Control Guidelines update and draft Connecticut Stormwater Quality Manual update³.

The Council’s comments above address only certain elements of the materials provided by the Petitioner at the time of the filing. Additional information can become evident through comments offered by other parties and during the Siting Council’s administrative hearing process. The absence of comment(s) by this Council about any Petition or Application, or any aspects thereof, may not be interpreted as an endorsement of a proposed project, or its components or that this Council might not have comments or concerns on more specific issues raised during the hearing process.

Thank you for your consideration of the Council’s comments.

Sincerely,



Paul Aresta
Executive Director

¹ USFWS, Small Whorled Pogonia; https://www.fws.gov/sites/default/files/documents/Small%20whorled%20pogonia_fact%20sheet.pdf

² RCSA, Section 22a-69-2.3; https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_22aSubtitle_22a-69Section_22a-69-2.3/

³ DEEP, <https://portal.ct.gov/DEEP/Water/Stormwater-Quality-Manual-and-Soil-Erosion-and-Sediment-Control-Guidelines>