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November 9, 2023

Melanie A. Bachman, Esq.  
Executive Director  
Connecticut Siting Council  
10 Frankline Square  
New Britain, CT 06051

**RE: Docket No. 516 — The United Illuminating Company Application for a Certificate of Environmental Compatibility and Public Need for the Fairfield to Congress Railroad Transmission Line 115-hV Rebuild Project**

Dear Ms. Bachman:

On behalf of the Grouped LLC Intervenors ("LLC") enclosed for filing with the Connecticut Siting Council (the "Council") are the following:

1. LLC's pre-hearing submission; and
2. LLC's pre-filed testimony.

An original and fifteen (15) copies of this filing will be hand-delivered to the Council's office today.

Should the Council have any questions regarding this filing, please do not hesitate to contact me.

Sincerely,

Christopher B. Russo, Esq.  
Russo & Rizio, LLC  
10 Sasco Hill Road  
Fairfield, CT 06824

## CONNECTICUT SITING COUNCIL

RE:

DOCKET NO. 516

Application submitted by the United Illuminating Company for a Certificate of Environmental Compatibility and Public Need for the Fairfield to Congress Railroad Transmission Line 115-kV Rebuild Project that consists of the relocation and rebuild of its existing 115- kilovolt (kV) electric transmission lines from the railroad catenary structures to new steel monopole structures and related modifications along approximately 7.3 miles of the Connecticut Department of Transportation's Metro-North Railroad corridor between Structure B648S located east of Sasco Creek in Fairfield and UI's Congress Street Substation in Bridgeport, and the rebuild of two existing 115-kV transmission lines along 0.23 mile of existing UI right-of-way to facilitate interconnection of the rebuilt 115-kV electric transmission lines at UI's existing Ash Creek, Resco, Pequonnock and Congress Street Substations traversing the municipalities of Bridgeport and Fairfield

NOVEMBER 9, 2023

### **PRE-HEARING SUBMISSION OF GROUPED LLC INTERVENORS**

The Grouped LLC Intervenor (“LLC”), a party-intervenor in this proceeding, hereby submits its response to the June 21, 2023 memorandum issued by the Connecticut Siting Council (the “Council”) and decision of November 2, 2023, with respect to the above-referenced application filed by The United Illuminating Company (“UI”):

#### **A. List of Witnesses**

1. Raymond Rizio, Esq., Attorney with the law office of Russo & Rizio, LLC

#### **B. Pre-Filed Testimony**

LLC is submitting the pre-filed testimony of Raymond Rizio, Esq. Attorney Rizio is an attorney at the law offices of Russo Rizio, LLC, with a business address located at 10 Sasco Hill Road, Fairfield, Connecticut 06824. Attorney Rizio has been practicing law for over thirty (30) years primarily in the area of real estate law with a particular focus on land use and zoning.

**C. List of Documents to be Administratively Noticed**

None at this time.

**D. Copies of any Available Exhibits to be Offered at the Public Hearing**

1. Exhibit A - Transit-Oriented Development Study dated October 2019 by the Fairfield Planning and Zoning Commission.

Respectfully Submitted,

GROUPED LLC INTERVENORS

By: \_\_\_\_\_

  
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## CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing was electronically mailed and/or deposited in the United States mail, first-class, postage pre-paid this 9th day of November, 2023 to the individuals on the Service List for this Docket, as of November 9, 2023. The original and fifteen copies (plus one electronic copy) of the foregoing was electronically mailed and/or deposited in the United States mail, first-class, postage-paid this 9<sup>th</sup> day of November, 2023 to:

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(1 original, 15 copies, plus 1 electronic)

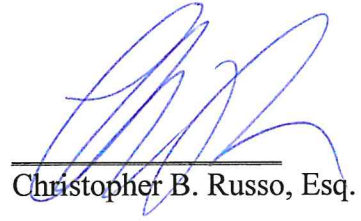
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Christopher B. Russo, Esq.

CONNECTICUT SITING COUNCIL

RE:

DOCKET NO. 516

Application submitted by the United Illuminating Company for a Certificate of Environmental Compatibility and Public Need for the Fairfield to Congress Railroad Transmission Line 115-kV Rebuild Project that consists of the relocation and rebuild of its existing 115- kilovolt (kV) electric transmission lines from the railroad catenary structures to new steel monopole structures and related modifications along approximately 7.3 miles of the Connecticut Department of Transportation's Metro-North Railroad corridor between Structure B648S located east of Sasco Creek in Fairfield and UI's Congress Street Substation in Bridgeport, and the rebuild of two existing 115-kV transmission lines along 0.23 mile of existing UI right-of-way to facilitate interconnection of the rebuilt 115-kV electric transmission lines at UI's existing Ash Creek, Resco, Pequonnock and Congress Street Substations traversing the municipalities of Bridgeport and Fairfield

NOVEMBER 9, 2023

**GROUPED LLC INTERVENOR'S PRE-FILED TESTIMONY OF  
RAYMOND RIZIO, ESQ.**

**Q: Please state your name, title and business address.**

A. My name is Raymond Rizio. I am an attorney at the law offices at Russo & Rizio, LLC. Its business address is 10 Sasco Hill Road, Fairfield, Connecticut 06824.

**Q: Please state your professional experience.**

A: I have been practicing law for over thirty (30) years primarily in the area of real estate law with a particular focus on land use and zoning. If I were to estimate, I have submitted well over a thousand applications to local land use boards and have presented a similar number of applications before those local land use boards. In addition, I have been an owner on a number of commercial and residential developments in the area, including Bridgeport and Fairfield.

**Q. Is there a particular geographic area where your land use practice has focused?**

A. Yes, most of the land use applications I have submitted and local land use boards I have appeared before have been located in eastern Fairfield County. The overwhelming share of those applications have been and continue to be in Fairfield, Bridgeport and Trumbull.

**Q. What is the purpose of your pre-filed testimony?**

A. My pre-filed testimony is intended to review the impacts of the United Illuminating Company's ("UI") application on individual properties and the municipalities of Fairfield and Bridgeport in the context of the relevant land use and zoning regulations. Another reason for my pre-filed testimony is to illustrate that UI and the Siting Council (the "Council") should consider reasonable, prudent alternative locations for the proposed transmission line that will not cause adverse impacts the development of these individual properties and municipalities.

**Q. What specific tasks did you and LLC undertake in preparing this pre-filed testimony?**

A. To prepare this pre-filed testimony, I undertook the following tasks:

- Reviewed UI's application materials;
- Reviewed the zoning maps and local zoning regulations of the Town of Fairfield and the City of Bridgeport;
- Performed an analysis the impact of UI's application on the individual properties owned by the members of LLC as well as the impact on the municipalities of Fairfield and Bridgeport in the context of local land use regulations; and
- Conferred with legal counsel and members of the LLC regarding UI's application and impacts to LLC's properties.

**Q. Can you give an overview of the zoning where UI's proposal is located in the Town of Fairfield in the context of their zoning regulations?**

A. Yes, starting from the very western end, the transmission line (the "Line") begins in what is known as the Residence R-3 District before briefly transferring to the Residence A District just to the west of SAS-1574. These are single-family residential districts.

Starting at the western end of SAS-1574, the zoning map then transitions to the Neighborhood Designed District (“NDD”) and continues to the eastern end of SAS-1596 with an exception for a property that is located within the Designed Industrial District (“DI”). These are commercial and industrial zones, which permit a very wide range of uses from retail, restaurants, office and residential within the NDD and manufacturing, warehousing, retail and industrial uses within the DI. It has been an incredibly active area for redevelopment. I have submitted applications for redevelopment to local land use boards for both SAS-1574 and SAS-1595 within the past year. It should also be noted that a portion of this area is located within the Southport Historic District and development within this District is subject to review by the Historic District Commission.

Then, starting at the western end of SAS-1596, the zoning map transitions to the Residence B & C Districts. These residential districts permit up to two-family dwellings and four-family dwellings, respectively, so they have the potential for greater density and development. This area includes a number of historic properties. It is a very visible, active and significant area. My office recently handled the transfer of one of the properties in this area within the past year.

Next, the zoning map transitions to a very long stretch that is a mixture of the DI and the Designed Commercial District (“DCD”) up until the eastern end of SAS-1732. The DCD is the most common commercial district found in the Town. It permits a number of additional commercial uses from what uses are permitted in the NDD and increased residential density. It has also been an incredibly active area for redevelopment. Within the past year, I have submitted an application to the Fairfield Planning and Zoning Commission for the redevelopment of SAS-1717. The development of that property would be one of the largest and most visible mixed-use commercial projects that the Town of Fairfield has seen on a single property.

The zoning map then transitions to the Center Designed Business District (“CDBD”). I would describe this zone as the commercial district that permits the most significant development within the zoning regulations in terms of bulk, particularly with regards to the permitted uses, height of buildings, lot coverage, total floor area, reduced setbacks etc. For example, the DCD and NDD permit a lot coverage of seventy-five percent (75%) of the lot while the CDBD permits a lot coverage of ninety percent (90%). It is also important to note that this area is the only location of the CDBD within Fairfield. It is the heart of the commercial district within the Town.

Continuing east along the proposed transmission line, the zoning map transitions back to the DCD. It then transitions to a stretch starting at the



eastern end of SAS-1781 that is mainly dominated by the DI with the exception of an area located in the Residence B District and the DCD.

However, in the area of the Fairfield Metro train station, the Town has located a special zoning district known as the Commerce Drive Area Designed District (“CDADD”). This is an area that was specifically targeted for redevelopment in connection with addition of the Fairfield Metro train station. I was practicing during the construction of the Fairfield Metro Station and can attest to the tremendous amount of discussion that the Fairfield Metro train station would spur development in its immediate vicinity. Since that time, there has been a significant amount of mixed-use development with hundreds of residential dwelling units constructed. However, the one area that has yet to be developed, but appears poised for development, has been the south side of the railroad tracks where UI proposes its transmission line. For example, I submitted an application within the past year for a multi-family residential project to contain over two hundred (200) dwelling units where UI proposes a permanent easement. Similar to the CDBD, the CDADD permits intense commercial development. Particularly, it is one of the only areas that permits high residential density at the rate of seventy-five (75) bedrooms per acre.

The Fairfield Planning and Zoning Commission recently adopted a thorough and large-scale Transit-Oriented Development Study dated October 2019 (the “TOD Study”), enclosed as **Exhibit A**. It specifically focused on development within the area of Fairfield Metro Train Station and the Fairfield Downtown Train Station. The TOD Study contained a number of findings, but some of the highlights were that the Fairfield Metro Train Station area could have the opportunity for 80,000-150,000 square feet of new office development and that the Fairfield Downtown Station area had the potential of 10,000-20,000 square feet of development or tenanting of existing spaces. For residential use, the TOD Study found that over five (5) years, Fairfield could see the construction of 1,695 to 2,075 new dwelling units within the areas of the train stations.

**Q: How does UI’s application impact the zoning and development that you just described?**

A: It has a dramatic and incalculable negative impact on the development of these properties and Town in perpetuity. There is the obvious impact from the taking effectuated by the placement of a permanent easement on these properties that prevents the construction of building within the easement area. On many of these properties, the easements are located along what is defined as the “rear setback” of these properties under the zoning regulations. In the NDD, DCD and CDBD, this rear setback is significantly reduced compared to other zones within the Town. A proposed building only has to be located ten feet (10’) from the rear property line. Many of UI’s proposed easements go beyond this rear

setback line, restricting development of those properties beyond the zoning regulations.

It also should be recognized that many properties that abut this corridor are not particularly deep, especially along the Post Road. For instance, SAS-1734 is only approximately forty-five feet (45') deep in the area of the existing building. It is located in the CDBD, so it is subject to a street line setback of ten feet (10') and a rear property line setback of ten feet (10'). Therefore, it only permits a building with a depth of about twenty-five feet (25'). So, any further restriction beyond the rear property line setback caused by the UI easement would significantly hamper the redevelopment of the property.

The permanent easement further negatively impacts the development and redevelopment of these properties through its impact under the Fairfield Zoning Regulations. Section 21.2.21 of the Fairfield Zoning Regulations defines the term "Lot Area and Shape" under said regulations. The calculation of a property's Lot Area impacts a number of different development standards under said regulations, particularly the permitted lot coverage and floor area ratio for a property. Section 21.2.21 of the Fairfield Zoning Regulations in calculating the Lot Area of a property states the following:

"In determining compliance with the minimum lot area and shape requirements of the Zoning Regulations, land subject to underground easements may be included, but no street or highway, easement for vehicles or easement for above ground public utilities (other than utility easements serving a private residence) may be included."

So, Lot Area, as defined under the zoning regulations, will be reduced by the placement of the above ground public utility easement proposed by UI. For example, if a normal property was 100' x 100', it contains 10,000 square feet of lot area under the zoning regulations. In the CDBD, it would permit 9,000 square feet of lot coverage and, in the DCD and NDD, it would permit 7,500 square feet of lot coverage. Further, in the CDBD, it would permit 20,000 square feet of floor area; in the DCD, it would permit 15,000 square feet of floor area; and in the NDD, it would permit 10,000 square feet of floor area. However, if an easement proposed by UI extended twenty feet (20') within said property along the entire rear property line, under the regulations, said property would be calculated as having a lot area of only 8,000 square feet. Now, for said property, in the CDBD, it would only be permitted 7,200 square feet of lot coverage, which is a reduction of 1,800 square feet in permitted lot coverage, and, in the DCD and NDD, it would only permit 6,000 square feet of lot coverage, which is a reduction of 1,500 square feet in permitted lot coverage. Further, in the CDBD, it would only permit 16,000 square feet of floor area, which is a reduction of 4,000 square feet in permitted floor area; in the DCD, it would only permit 12,000 square feet of floor area, which is a

reduction of 3,000 square feet in permitted floor area; and in the NDD, it would only permit 8,000 square feet of floor area, which is a reduction of 2,000 square feet in permitted floor area.

In addition, remember that the CDBD and the CDADD, which are the Town's strongest mixed-use commercial districts, are only located along this corridor. UI's proposal places the transmission line through the CDBD and CDADD, permanently constricting the development potential of Fairfield's strongest developable area under the zoning regulations. The Post Road and the railroad corridor is the main artery of commercial development in the Town of Fairfield, and consequently the most significant base of the Town's Grand List. UI has located its transmission line and proposed easements in such a manner to restrict its development permanently.

As a partial owner of SAS-1729, I can personally attest that we lost a prospective tenant of the existing building due to concerns of the proposed transmission lines. This application is already having an impact on development.

With regards to the proposed work pads and pole installations, it should be noted that properties and their uses are required to have a certain number of off-street parking spaces. The work pads will certainly and any permanent improvements that remove parking spaces may cause a violation under the Fairfield Zoning Regulations. I can personally attest that any loss of a parking space at SAS-1729, whether temporarily or permanently, will cause a violation of the Fairfield Zoning Regulations due to creating a nonconformity for off-street parking.

**Q: If UI were to bury its transmission line, as an alternative to the current proposal, what impact would that have on the calculation of Lot Area for these properties under the zoning regulations.**

A: Section 21.2.21 of the Fairfield Zoning Regulations includes area subject to underground easements in the calculation of Lot Area, so the Lot Area of those properties would not be reduced by one square foot and, therefore, they would be permitted the same lot coverage and floor area as a lot which had no utility easement under the zoning regulations.

**Q. Can you give an overview of the zoning where UI's proposal is located in the City of Bridgeport in the context of their zoning regulations?**

A: The transmission lines traverse through a mix of zones, which are too numerous to prudently list in this testimony, but generally, it runs through a series of neighborhood mix zones, which contain residential dwellings of various densities, and its commercial and industrial zones, which permit a wide range of commercial and industrial uses. Similar to my responses regarding the Town of Fairfield, these transmission lines and permanent

easements will impair one of the thriving residential and commercial corridors in the City of Bridgeport. It will also cause violations of existing approvals. I personally filed and received an approval for the McDonald's restaurant located at ARN-1829. The proposed work pad will violate the land use approval I obtained for ARN-1829.

It will also significantly impair the redevelopment of certain properties. For instance, I have been in discussions with my client regarding the redevelopment of his property identified as RPS-1945. RPS-1945 currently contains a one-story building. The current zoning regulations in the City of Bridgeport were recently adopted as a complete revision from the prior zoning regulations to help spur development within the City. For example, RPS-1945 is now located within the RX2 Zone. Said zone permits a building height to be up to eight and a half (8.5) stories. The proposed UI Easement will prevent that development within that area, which significantly reduces the amount of floor area that could be constructed on the Site. There is no minimum street line setback within the General Building type permitted in the RX2 Zone, so that area is available for development under the zoning regulations.

Many of the same negative impacts experienced by properties within the Town of Fairfield due to UI's applications are also experienced by properties within the City of Bridgeport.

**Q: Does this conclude your pre-filed testimony in connection with UI's application?**

**A: Yes.**