

Via Hand Delivery and Electronic Mail (siting.council@ct.gov)

January 11, 2024

Melanie Bachman,
Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Docket No. 516 - The United Illuminating Company (UI) application 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, Connecticut.

Brief

Dear Attorney Bachman:

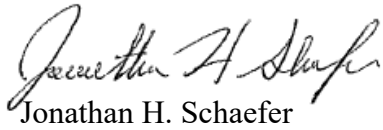
On behalf of Fairfield Station Lofts, LLC (FSL), enclosed please find one (1) original and fifteen (15) copies of FSL's Brief in connection with the above-referenced Petition.

If you have any questions concerning this submittal, please contact me at your convenience.

Robinson+Cole

Melanie Bachman
January 11, 2024
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Sincerely,

A handwritten signature in black ink, appearing to read "Jonathan H. Schaefer". The signature is fluid and cursive, with the first name being the most prominent.

Jonathan H. Schaefer

Enclosures (One original and fifteen copies of FSL Brief)

Copy to (via email): Service List 11/28/23

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :
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 :
 THE UNITED ILLUMINATING COMPANY (UI) : DOCKET NO. 516
 APPLICATION 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, CONNECTICUT. : JANUARY 11, 2024

POST-HEARING BRIEF OF FAIRFIELD STATION LOFTS, LLC

I. INTRODUCTION

On August 29, 2023, pursuant to Connecticut General Statutes §16-50n, §22a-19, and §4-177a, the Connecticut Siting Council (“Council”) granted Intervenor status and CEPA Intervenor

status to Fairfield Station Lofts, LLC (“FSL”) in the above-referenced docket.¹ FSL requested to intervene in this proceeding because FSL stood to be specifically and substantially affected by these proceedings. FSL is the owner of a 0.32± acre parcel at 78 Uquowa Place, Fairfield, Connecticut 06824 (the “FSL Property”). The FSL Property is currently occupied by a five-story multi-family residential building and associated parking area, approved pursuant to the State’s affordable housing statute (the “FSL Apartments”).²

In this docket, UI is proposing an extensive electric transmission line relocation and rebuild project (the “Project”) a portion of which is immediately adjacent to the FSL Property. More precisely, the FSL Property could be directly or indirectly impacted by the location of tower P689S, the transmission lines connecting tower P689S and tower P690S, the location of a “work pad” for tower P689S, and a permanent easement in favor of UI over a substantial portion (*i.e.*, twelve feet along the entire northern property boundary) of the FSL Property, including a portion of the FSL Apartments.

II. REQUESTED CONDITIONS

The FSL Apartments are fully occupied and currently compliant with local zoning regulations and restrictions. As an affordable housing development, the FSL Apartments were exempt from setback requirements in the Fairfield Zoning Regulations. Therefore, the northern side of the FSL Apartments is within approximately five (5) feet of the property line FSL shares with the Metro-North Railroad property.³ The northwestern portion of the FSL Apartments is

¹ See Council Correspondence to FSL, August 30, 2023.

² The United Illuminating Company’s (“UI”) Application submitted in the Docket No. 516 proceeding, the FSL Property is referred to as “SAS-1754”. See, *e.g.*, Exhibit B.1.k, Volume 2 – Project Mapping and Drawings, Sheet 9 of 29; Exhibit B.1, Application at pp. 2-11, 7-8, and 9-19.

³ See Public Utilities Regulatory Authority (PURA) Docket No. 21-06-18, UI LFE-002, Attachment 1.

less than six inches (6”) from this shared property line. Between that property line and the northwestern portion of the FSL Apartments is an emergency back-up generator, a concrete access way required for use by local emergency service personnel (e.g., fire department) to utilize in case of an emergency, the main combined service shut off curb valve, a six-inch (6”) fire line, and a stormwater collection and drainage system. Prior to the October 17, 2023 Evidentiary Hearing, UI filed responses to FSL’s interrogatories, which included its willingness to modify the location of certain structures to eliminate direct impacts to the FSL Property (e.g., Tower P689S moved 18 feet to the west), confirmed that emergency access to the FSL Apartments would not be impeded by the Project, and confirmed that the Project, including temporary work pads, would not directly impact the FSL Property. (See A-FSL-1 through A-FSL-21). FSL appreciates these modifications to the Project and expects that they will be maintained if the Project is approved.

FSL remains primarily concerned with the impact of UI’s permanent easement, to be held in perpetuity, on the use and enjoyment of the FSL Property – both as to day-to-day activities and longer-term operations and use of the property. FSL has serious concerns about the nature and conditions of such a permanent easement over an area that is almost entirely occupied by a newly constructed five-story affordable housing apartment building and contains important emergency access and access to building shut-off valves and stormwater management features. FSL is also concerned with the long-term impacts to use and enjoyment of the FSL Property. The template easement that UI intends to use in connection with this permanent easement does not appear to be conducive to the current use of, or day-to-day operations at, the FSL Property – let alone future uses of the FSL Property.

During the October 17, 2023 public hearing UI was questioned regarding the Project’s potential and actual impacts to the FSL Property and the nature of the permanent easement to be recorded in perpetuity on the land records. (October 17, 2023 Evidentiary Hearing Transcript (“Tr. 6.”), pp. 57-78). In response to this line of questioning, UI assured FSL that site specific and other relevant considerations would be considered when negotiating the permanent easement with FSL. (Tr. 6, pp. 57-78). UI also agreed “to the Council making a condition of approval of the project that UI and FSL negotiate in good faith a permanent easement (if needed) with terms and conditions that are appropriate and reasonable with consideration of the existing conditions and structures on [the FSL Property]”. (Tr. 6, p. 77).

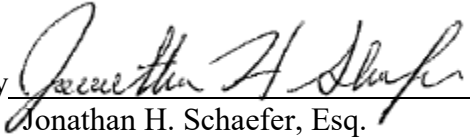
III. CONCLUSION

For the above-stated reasons, if the Council issues a Decision approving the Project, then FSL requests that the Council include the following as conditions to that approval that UI must satisfy:

1. Prior to construction activities, negotiate in good faith with FSL to finalize a permanent easement with terms and conditions that are appropriate and reasonable to FSL, with special consideration of the existing conditions and structures on the FSL Property.
2. Construction of the Project as approved will not result in any direct impacts to the FSL Property or the FSL Apartments, including any obstruction of emergency vehicles responding to the FSL Property or the regular vehicular and foot traffic in and out of the FSL Property.

Respectfully submitted,

FAIRFIELD STATION LOFTS, LLC

By  _____

Jonathan H. Schaefer, Esq.

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CERTIFICATE OF SERVICE

I hereby certify that on the 11th day of January 2024, a copy of the foregoing was sent,
via electronic mail, to:

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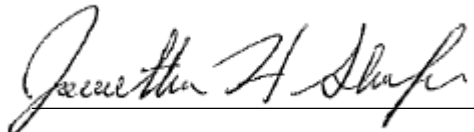
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