

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

August 28, 2023

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.

Petition to Intervene and Request for an Additional Evidentiary Hearing

Dear Attorney Bachman:

On behalf of Fairfield Station Lofts, LLC (FSL), enclosed please find one (1) original and fifteen (15) copies of FSL's Petition to Intervene and Request for Additional Evidentiary Hearing, including Attachment A, Attachment B, and Attachment C referenced therein, in connection with the above-referenced Petition. If larger copies of Attachment A are needed, please let me know.

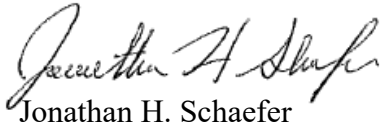
Robinson+Cole

Melanie Bachman
August 28, 2023
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In addition to providing copies of this filing to the two parties listed on the Service List (07/20/23), FSL is also providing a copy of this filing to the attorneys listed in the thirteen (13) intervenor and CEPA intervenor requests filed on August 24, 2023.¹

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

Sincerely,



Jonathan H. Schaefer

Enclosures (One original and fifteen copies of FSL Petition to Intervene and Request for Additional Evidentiary Hearing, including Attachment A, Attachment B, and Attachment C)

Copy to (via email): Service List 07/20/23; Attorney Burdo; Attorney Russo

¹ A paper copy is being provided to Attorney Michael P. Burdo. An electronic copy was sent to Attorney Christopher Russo, who either signed or notarized twelve of the thirteen requests.

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :
 :
 :
 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 : AUGUST 28, 2023
 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. :

PETITION TO INTERVENE AND
REQUEST FOR ADDITIONAL EVIDENTIARY HEARING

Pursuant to Connecticut General Statutes (“C.G.S.”) Section 16-50n and Regulations of Connecticut State Agencies (“R.C.S.A.”) Section 16-50j-15,¹ Fairfield Station Lofts, LLC (“FSL”) hereby requests permission of the Siting Council (“Council”) to participate, as an

¹ FSL hereby reserves its rights to intervene pursuant to C.G.S. § 22a-19 as it further understands potential unreasonable impacts to the natural resources proximate to its property, including the environmental impact from the removal of native trees and use of herbicides, land seizure for new permanent easements, and operations that will

intervenor, in the Docket No. 516 proceeding. FSL will 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 approved pursuant to C. G. S. 8-30g, the State’s affordable housing statute. In The United Illuminating Company’s (“UI”) Application submitted in the Docket No. 516 proceeding, the FSL Property is referred to as “SAS-1754”.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 will be directly 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 over a substantial portion of the FSL Property, including the multi-family apartment building, in favor of UI.

As a result of these direct impacts, and other indirect impacts, FSL wishes to participate in the Docket No. 516 proceedings to obtain more precise and accurate information from UI and the Council and ensure all reasonable alternatives to the currently proposed Project have been evaluated in order to avoid unnecessary and unreasonable property damage, unsafe conditions, and actions that would impair FSL’s ability to comply with the regulations of the Town of Fairfield. Therefore, as further detailed below, FSL requests permission to be named and admitted as an intervenor in the Docket No. 516 proceeding.

affect the use, operation, and enjoyment of FSL’s property.

² 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.

Fairfield Apartment Building

FSL recently completed construction of a five-story residential apartment building on the FSL Property, which provides much needed affordable housing to the residents of Fairfield (the “Fairfield Apartment Building”). FSL obtained approval to construct the Fairfield Apartment Building in June 2020.³ The construction of the Fairfield Apartment Building was completed in Fall 2022⁴ and residents began moving in shortly thereafter.

The Fairfield Apartment Building is now fully occupied and currently compliant with local zoning regulations and restrictions. As a C.G.S. Section 8-30g affordable housing development, the Fairfield Apartment Building was exempt from setback requirements. Therefore, the entire western side of the Fairfield Apartment Building is within approximately five (5) feet of the property line shared with the Metro-North Railroad property.⁵

The northwestern portion of the Fairfield Apartment Building is less than six inches (6”) from the property line. Between the property line and the southwestern portion of the Fairfield Apartment Building is an emergency 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, and a six-inch (6”) fire line. The Fairfield Apartment Building has twenty-seven apartments and roof-top amenities. On the southwestern end roof is a common space for residents to enjoy. On the northwestern end of the roof are solar voltaic panels.

As the maps and figures provided to date by UI do not show the current state of the Fairfield Apartment Building and immediate proximity, included with this Petition as

³ See Attachment B – Town Plan and Zoning Commission, Town of Fairfield, Minutes of Meeting June 23, 2020.

⁴ See Attachment C – Town Plan and Zoning Commission, Town of Fairfield, Notice of Decisions – October 11, 2022 (approving the release of FSL’s bond pertaining to site improvements).

Attachment A is a current photograph of the Fairfield Apartment Building and the immediate proximity. This photograph is looking to the north, with the railroad tracks to the left of the Fairfield Apartment Building.

FSL's Preliminary Contentions

FSL is concerned with the location of transmission equipment on and/or proximate to the FSL Property and the Fairfield Apartment Building. The information provided to date in the Docket No. 516 proceeding does not allow FSL to fully understand and examine the location of the Project in relation to the FSL Property and the Fairfield Apartment Building. Therefore, FSL is not able to accurately evaluate the Project's potential direct and indirect impacts to the FSL Property and the Fairfield Apartment Building.

While FSL has many concerns, contentions, and questions relative to the Project, a few are summarized below:

- The location of tower P689S in close proximity to the Fairfield Apartment Building.
 - The apparent location of tower P689S is likely to interfere with the ability of emergency services to access the west side of the Fairfield Apartment Building. This access was created and is maintained at the request of the Town of Fairfield Fire Department and Plan and Zoning Commission ("P&Z"). As a condition of the P&Z's approval, FSL worked extensively with UI to relocate a distribution pole and lines from the same location where it appears tower P689S will be located.⁶ This relocation was requested due to concerns with fire hazards and safe access for emergency services to the west side of the Fairfield Apartment Building.
- The proximity of the transmission lines between tower P689S and P690S to the Fairfield Apartment Building.
 - FSL is concerned with UI's understanding of the current state of the FSL Property and the Fairfield Apartment Building. Some portions of the record refer to a "three-story apartment building", but there are also

⁵ See Public Utilities Regulatory Authority (PURA) Docket No. 21-06-18, UI LFE-002, Attachment 1.

⁶ See Public Utilities Regulatory Authority (PURA) Docket No. 21-06-18.

references to the Fairfield Apartment Building having a height of 63± feet.

- While FSL understands that UI has evaluated and may implement an alternative design option that would place the minimum conductor height for towers P689S and P690S at 75 feet, 2 inches to 84 feet, 5 inches, the consideration of this approach did not appear to factor in the roof-top uses (i.e., residential recreational space and solar photovoltaic panels). FSL also has serious concerns as to why UI only evaluated one alternative options for redesign relative to the Fairfield Apartment Building but evaluated three alternative options for redesign relative to a similarly situated apartment building in Bridgeport.⁷
- Apart from considerations related to magnetic-field reduction, FSL is concerned with the proximity of the transmission lines to the Fairfield Apartment Building. FSL could not find any information in the record as to how close the transmission lines would actually be to the FSL Property or the Fairfield Apartment Building. Therefore, it is not clear if the distance between the transmission lines and the Fairfield Apartment Building meets applicable electrical and safety standards. The proximity of transmission lines to the Fairfield Apartment Building also raises concerns regarding emergency services' ability to access the western side of the building (e.g., Fire Department ladder access).
- FSL also has concerns as to whether UI has adequately considered impacts to, and effects by, the recreational use of the Fairfield Apartment Building's rooftop and the operation of the solar photovoltaic panels.
- The location of the work pad associated with P689S.
 - Similar to the location of tower P689S, the location and extent of the work pad, especially the proximity to the southwest FSL Property boundary, is likely to interfere with access for emergency services, directly impact the emergency generator for the Fairfield Apartment Building, and directly impact access to the front entrance of the Fairfield Apartment Building.
- The nature and extent of the permanent easement UI intends to obtain on the FSL Property.
 - UI intends to obtain a permanent easement along a substantial portion of the westerly side FSL Property (i.e., along the Metro-North Railroad property line). UI has indicated that this permanent easement will extend between 11.5 and 14.5 feet into the FSL Property.⁸ The Fairfield Apartment Building is located within approximately five (5) feet of the property line with Metro-North Railroad. With portions of the building

⁷ See, e.g., UI's Response to Interrogatory CSC-69, Exhibit 3 to Attachment CSC-69-1.

⁸ See Exhibit B.1.k, Volume 2 – Project Mapping and Drawings, Sheet 7 of 21 and Sheet 19 of 21.

less than six inches (6”) from that property line. An emergency generator, a concrete access way for emergency personal (e.g., fire department) to utilize in case of an emergency, the main combined service shut off curb valve, and a six-inch (6”) fire line are all located between the Fairfield Apartment Building and the westerly property line.

- As UI has already acknowledged, UI has had no communication with FSL regarding this anticipated permanent easement.⁹ This is despite FSL and UI working closely together in 2020, 2021, and 2022 to relocate a distribution pole and associated lines from outside the front of the Fairfield Apartment Building. 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 shut-off valves.¹⁰ The template easement that UI intends to use in connection with this permanent easement does not appear to be conducive to the current uses of the FSL Property.

FSL has other contentions, concerns, and questions regarding the Project and its potential impacts to the FSL Property and the Fairfield Apartment Building. As the owner of both, FSL is uniquely positioned to understand these potential impacts, especially related to public safety, and assist UI and the Council in evaluating potential impacts, as well as alternative options for the Project in the vicinity of the FSL Property. FSL intends to submit evidence that has not previously been considered, including evidence related to public safety, current property conditions, and potential impacts and issue interrogatories to UI to obtain answer to the questions and open issues raised above.

Good Cause for Intervention

FSL acknowledges that this Petition is being filed less than five days prior to the hearing in Docket 516, however, there is good cause for the Council to grant FSL intervenor status. FSL has monitored the information submitted by UI to date and had hoped that information would resolve FSL’s concerns; however, it has only created more concerns.

⁹ See UI’s Response to Interrogatory CSC-26.

¹⁰ See UI’s Response to Interrogatory BWC-8.

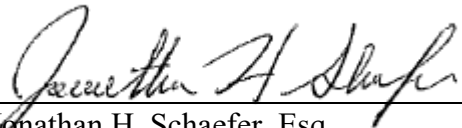
FSL's participation will provide the Council with a unique perspective. UI has already acknowledged the unique impacts of the Project to the Fairfield Apartment Building as one of the two closest residential/affordable housing apartment buildings that will be directly impacted by the Project. FSL also possess specific and unique knowledge regarding the construction, layout, make-up, and operations of the Fairfield Apartment Building, including the restrictions imposed by the Town of Fairfield Planning & Zoning Commission's approval to construct and the fire and public safety concerns addressed during the construction, and that FSL continues to monitor.

FSL's involvement in the Docket No. 516 proceeding would aid the Council in evaluating the Project's potential impacts, compliance with applicable standards, and impact on public safety.

For the above-stated reasons, FSL seeks permission to participate in this docket as an intervenor and due to the timing of such intervention requests an additional evidentiary hearing be scheduled in this proceeding.

Respectfully submitted,

FAIRFIELD STATION LOFTS, LLC

By 

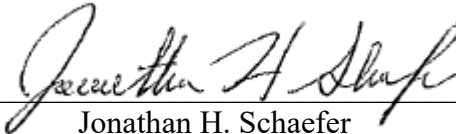
Jonathan H. Schaefer, Esq.
Kenneth C. Baldwin, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103-3597
(860) 275-8200
Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on the 28th day of August 2023, a copy of the foregoing was sent, via electronic mail, to:

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Jonathan H. Schaefer

ATTACHMENT A



ATTACHMENT B

DRAFT

**TOWN PLAN AND ZONING COMMISSION
TOWN OF FAIRFIELD
MINUTES OF MEETING – JUNE 23, 2020**

Closed Executive Session The Commission held a closed executive session via conference call at 5:30 pm.

Members Present: Matt Wagner, Chairman; Mark Corcoran, Vice Chairman; Meg Francis, Secretary; Lenny Braman, Kathryn Braun, Steven Levy, Tom Noonan, Gordon, (Alternate)

Town Staff Present: Jim Wendt, Planning Director; Mark Barnhart, Director of Community and Economic Development; Jim Baldwin, Town Attorney

479 Westway Road The Commission discussed a proposal to modify a stipulated judgment regarding the development of this property. No votes were taken and no decisions were made.

The Commission then proceeded to Public Session:

The Town Plan and Zoning Commission held a meeting at 6:00 p.m., on Tuesday, June 23, 2020, Via WebEx, Fairfield, CT.

Members Present: Matt Wagner, Chairman; Mark Corcoran, Vice Chairman; Meg Francis, Secretary; Lenny Braman, Kathryn Braun, Steven Levy, Tom Noonan

Town Department Members Present: Jim Wendt, Planning Director
Emmeline Harrigan, Assistant Planning Director

479 Westway Road The Chairman stated that it was the sense of the Commission to continue a dialogue with the developer to seek additional information and there was no vote on the proposal discussed.

78 Unquowa Place Motion was made by Mr. Noonan, seconded by Mr. Corcoran and the members present **VOTED TO APPROVE** the Zoning Compliance application of Fairfield Station Lofts, LLC pertaining to a 26-unit residential building pursuant to Section 8-30g of the CT General Statutes, subject to the following conditions:

1. A revised affordability plan shall be submitted to identify the responsible administrative entity for the affordable units and to include the initial affordable unit dispersal.

2. A final landscaping plan is required to indicate landscaping along the north side of the property and potential street trees.
3. Provide a construction fence to protect the neighboring medical office building fence and include plastic sheeting to a height of 8 feet for dust protection.
4. The applicant shall demonstrate their best effort to seek approval to relocate underground, the existing utility lines along the frontage of the site, at the applicant's expense, to improve Fire Dept. ladder access. The TPZ staff will join in that effort along with the Fire Dept. to help gain utility company approval
5. A bond shall be posted to secure site improvements.

For motion to Approve: Wagner, Corcoran, Francis, Braman, Levy, Noonan
Against the motion: Braun

PUBLIC HEARING

ZONING REGULATION AMENDMENT Application of the Town Plan and Zoning Commission to amend Section 2.12 (Flood Management) and 32.0 (Flood Protection) of the Fairfield Zoning Regulations. The purpose of the amendments is to update the regulations pursuant to the standards of the National Flood Insurance Program.

Emmeline Harrigan, Assistant Planning Director presented this application to the Commission.

This meeting adjourned at 7:45 p.m.

The audio recording can be found here:
<https://www.youtube.com/watch?v=XOUExXbKxUk>

Meg Francis
Secretary

Dolores Sansonetti
Clerk

ATTACHMENT C

**TOWN PLAN AND ZONING COMMISSION
FAIRFIELD, CONNECTICUT
NOTICE OF DECISIONS – OCTOBER 11, 2022**

The Town Plan and Zoning Commission of the Town of Fairfield, Connecticut held a meeting on October 11, 2022, and voted on the following:

78 Unquowa Place Request of Fairfield Station Lofts, LLC for 100% release of a \$66,475.00 bond pertaining to site improvements. Cent Des. Dist.

APPROVED

1485 Stillson Road Resubdivision application of Sand Dollar Development, LLC for two (2) lots in an A Zone.

APPROVED WITH CONDITIONS

801 Post Road Special Permit application of Saucy, LLC pertaining to additions and alterations to establish a restaurant use. Des Com. Dist.

APPROVED

40 Hillside Road Special Permit application of 40 Hillside Road, LLC pertaining to the construction of a new veterinary hospital.

APPROVED WITH CONDITIONS

705 – 745 Hulls Highway Request of Peter Olsen for 100% release of a \$26,871.00 bond pertaining to Subdivision improvements. AA Zone

APPROVED

6-18 Boroskey Road Request of Lucas Papageorge for 100% release of a \$28,265.00 bond pertaining to Subdivision improvements. AA Zone

APPROVED

Dated at Fairfield, CT this 14th day of October 2022
Effective Date: October 15, 2022

TOWN PLAN AND ZONING COMMISSION

Tommy Noonan, Chairman
Meg Francis, Secretary
Josephine M. Keogh, Clerk