

DAVID A. BALL

Please Reply To Bridgeport
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February 8, 2024

Via e-mail and Federal Express

Attorney Melanie Bachman
Executive Director
Connecticut Siting Council
Ten 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.

Town of Fairfield's Comments to Proposed Findings of Fact

Dear Attorney Bachman:

I've enclosed an original and fifteen copies of the Town of Fairfield's Comments to Proposed Findings of Fact regarding Docket No. 516.

Very truly yours,



David A. Ball

cc: Service List

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) }
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Connecticut Department of Transportation's Metro-North }
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Sasco Creek in Fairfield and UI's Congress Street Substation }
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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. }

Connecticut
Siting
Council

February 8, 2024

Town of Fairfield's Comments to Proposed Findings of Fact

Submitted by:

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I. Introduction

The Town of Fairfield (the “Town”) submits these comments to the Council’s Proposed Findings of Fact dated February 1, 2024. At the Council’s February 1 meeting, the Council took a straw poll vote of each member. There were at least four votes in favor of a double-circuit overhead design to the north of the Metro-North Railroad tracks from Ash Creek Substation west to the connection with Eversource (referred to as the “Hannon-Morissette Alternative”). Not one Council member indicated support for UI’s preferred overhead route to the south of the tracks. Accordingly, the Council staff has been instructed to draft a proposed Opinion, and Decision and Order, approving a Certificate for the Hannon-Morissette Alternative.

The Town appreciates the Council’s recognition of the unacceptable adverse impacts that would result from UI’s proposed overhead monopole design to the south of the tracks on private properties of historic, cultural and religious significance. In addition, the Town concurs with the sentiment expressed by Commissioner Nguyen that UI’s Application should be denied because the Council does not have a “sufficient record to make an informed decision” and UI has failed to “provide adequate evidence on the cost effectiveness and sufficient cost analysis of the alternative configurations.” (See February 1, 2024 Siting Council Meeting recording at 0:42:25¹).

While the Hannon-Morissette Alternative appears to be a step in the right direction, the Town remains concerned about the lack of sufficient details regarding this alternative. Because there is insufficient information in the record to assess the impacts of the Hannon-Morissette Alternative, and for the Council to make the findings required by PUESA (see Conn. Gen. Stat. § 16-50k), the Council should deny UI’s application without prejudice to renewal. UI should be

¹ Available at https://us06web.zoom.us/rec/share/Ki5gVbKjgwTiSjdcQ0a3Fc5MLAx6EWaGzCBleo3YznMPrYUNAS-t0dUPSV0FKGE.oE8wta_Wd5Unor75.

required to file a new Application providing the necessary details to allow the Council to balance the alleged public need with the environmental impact of this alternative route.

Indeed, the following questions about the Hannon-Morissette Alternative remain unanswered:

- What design will the new double-circuit monopoles have?
- How does UI intend to address environmentally sensitive areas and residences to the north of the railroad tracks?
- Where exactly will the monopoles be located, what will be their height, how will the foundations be built, and will UI avoid the impact of permanent easements to the north that rendered its preferred option unacceptable? Indeed, at the February 1, 2024 Council meeting, Commissioner Silvestri stressed the need for “monopoles as short as possible.” (See February 1, 2024 Siting Council Meeting recording at 0:40:10).
- Where are the cross-section diagrams, maps, and plans and profiles relating to this alternative, similar to Volume 2 of UI’s original application? Detailed figures identifying the heights of the proposed new structures and widths of any proposed easements such as those contained in Attachment V2.2, Sheets 19 through 21, have not been submitted.

While the Hannon-Morissette Alternative is surely a preferable option to UI’s proposed route to the south of the tracks, the Town contends that there is insufficient evidence in the record to issue a Certificate to UI for this alternative. Indeed, UI’s Application did not consider the rebuilding of the 1130 Line, as is required under the Hannon-Morissette Alternative. If the Council nonetheless approves UI’s Application, the Town requests that any such approval be conditioned on its project being designed primarily to remain in the existing railroad right of way, to avoid easements in sensitive areas to the north of the right of way, and to utilize monopoles that are no higher than those that currently exist on the 1130 line (85 feet).

II. Exceptions to Proposed Findings of Fact

The Town incorporates herein its Post-Hearing Brief and Proposed Findings of Fact dated January 11, 2024. The Town reiterates that an underground alternative within public roads is the Town's preferred siting option (if the Council were to determine there is a public need, which the Town continues to dispute), and objects to all findings of fact that conflict with the Town's Post-Hearing Brief and Proposed Findings of Fact. The Town also incorporates herein and adopts the Comments and Proposed Revisions filed on this date by the SCNET Intervenors.

The Town also submits the following additional comments to certain proposed findings of fact:

111. The Town First Selectperson was not available to verify or be cross examined on the November 2, 2023 pre-filed testimony during the Town's appearance at the December 12, 2023 continued evidentiary hearing session. No party or intervenor objected to admission of the November 2, 2023 pre-filed testimony into the evidentiary record without cross examination. (Town 4; Tr. 7, pp. 146-148)

Comment: This finding is inaccurate and incomplete. The Town's previous First Selectperson – not the Town's current Selectperson – was unavailable to verify or be cross examined on her November 2, 2023 pre-filed testimony.

113. A new Town chief elected official (CEO) took office on January 8, 2024. In correspondence to the Council, dated January 9, 2024, the new CEO adopted the position of the Town toward the Project during the prior administration. (Record – January 9, 2024 Correspondence from First Selectperson Gerber)

Comment: This finding is inaccurate and should be revised to reflect that the Town's current First Selectperson and chief elected official, William Gerber, took office on November 27, 2023 and in correspondence dated January 9, 2024, the First Selectperson submitted a statement to the Council stating his position towards the Project.

126. DOT prefers that UI's transmission lines are removed from the existing catenaries because it would facilitate DOT's maintenance of its equipment by not having to request UI transmission line outages. (Council Administrative Notice Item No. 39 – Docket No. 508 Findings of Fact #39 and #77; UI 12, response 85; DOT comment letter received August 18, 2023).

Comment: This finding should be revised to reflect that DOT did not demand or request that UI remove its transmission lines off the existing catenaries. (UI 20, A-SCNET-1-26).

154. The Town prefers updating the existing lines, moving the lines to the north side of the railroad tracks and/or placing the new lines underground to minimize ground disturbance, easements and visual impact. (Town 4)

Comment: This finding of fact should be revised to reflect that if the Council were to find a public need (which the Town continues to dispute), the Town prefers an underground route through public roads. However, it is accurate that the Town prefers the Hannon-Morissette Alternative compared to UI's proposed route to the south, provided that pole heights are no higher than the existing 1130 line and easements over sensitive areas to the north are avoided.

182. The Project is not designed to transmit capacity or energy to New York. The nearest interconnection between Connecticut and New York is the submarine 138-kV Norwalk to Northport Cables located approximately 9 miles west of Sasco Creek Substation. (Tr. 6, p. 109; ISO-NE Geographic Transmission Map dated December 21, 2023; Council Administrative Notice Item No. 19 – ISO-NE 2021 Regional System Plan, p. 87; Council Docket 224, Record)

Comment: This finding should be deleted. UI's witness, Zach Logan, admitted that the company's real motivation for its Application – including taller overhead poles and larger foundations to accommodate the larger and heavier 2156 ACSS Bluebird conductors, even though there is no projected need for that level of ampacity – is to be able to transmit electricity outside of the state. He testified that “the reason for [the additional capacity] is where we're an interconnected system in the ISO New England and we interface with New York to the south, if we were not to do that, we would become the limiting factor in that interface and we would inhibit load to be shared amongst New England and New York's region.” (Tr. 6, p. 109:8-14).

239. During an asset condition replacement project, the incremental cost of upgrading a transmission line to a larger conductor size and stronger structures is relatively low. Many expenses inherent in transmission line rebuilds are unrelated to the line's capacity; costs related to building access roads along a right-of-way, labor for building structures, and financing an ongoing project are not significantly affected by the size of the conductor chosen. Therefore, upgrading the capacity of lines as the opportunity arises, or “right-sizing” asset condition projects when they occur, could be a financially prudent way for New England to reliably serve increased peak loads. (Council Administrative Notice Item No. 24, p. 18)

Comment: This finding should be deleted. The evidence in the record demonstrates that designing for larger conductors in the future requires taller poles, and larger and deeper foundations with larger diameters, necessitating a wider right of way that will cause unacceptable adverse environmental effects and takings of private property. (Fairfield PFOF² ¶¶ 15, 17-33). This finding of fact also misconstrues ISO-NE’s Draft 2050 Transmission Study. That study states that upgrading the capacity of lines in conjunction with asset condition projects “could be . . . financially prudent” if doing so avoids “expanding the system into new locations” and “brand new line construction.” Indeed, page 18 of the study specifically cautions against “expanding existing rights-of-way or constructing new rights-of-way [that] could be difficult, expensive, and environmentally disruptive...” (Council Administrative Notice Item No. 24, p. 18). Moreover, the study also cautions that “it is not necessarily prudent for the region to pursue large numbers of line rebuilds immediately.” (Council Administrative Notice Item No. 24, p. 18). Because UI’s project involves the expansion of an existing right-of-way that is difficult, expensive, and environmentally disruptive; constitutes “expanding the system into new locations” and “brand new line construction;” and is not prudent, this finding of fact is inaccurate.

250. With the expected future increase in the electrification of the heating and transportation sectors, summer and winter peak loads are expected to increase dramatically. Additionally, New England’s current summer peaking system is forecasted to become winter peaking by the mid 2030s. A robust transmission system will ensure that loads under these future conditions can be served reliably. (Council Administrative Notice Item No. 24, Draft 2050 ISO-NE Transmission Study, p. 14)

Comment: This finding should be deleted. UI admits that this Project is not about increased demand or load capacity. (UI 20, A-SCNET-1-20). UI also admits that it “does not anticipate a significant load increase in Connecticut or the region in the next 10 years.” (UI 20 , A-SCNET-1-21). Moreover, according to UI, the “project need is based on an asset condition and not load capacity.” (Tr. 6, p. 104:7-19; Tr. 6, p. 130:23-25; Tr. 6, p. 131:11-12).

² “Fairfield PFOF” refers to the Town of Fairfield’s Proposed Findings of Fact dated January 11, 2024.

258.	The estimated capital cost of the Project is:	
	Total Construction	\$123,500,000
	Allowance for Funds Used During Construction (AFUDC) and Overhead*	\$78,200,000
	Land Rights**	\$32,200,000
	Materials	\$10,700,000
	Engineering Design and Permitting	\$10,400,000
	<u>Total Estimated Cost***</u>	<u>\$255,000,000</u>

*AFUDC is a combination of actual and forecasted costs for the Project. AFUDC are accrued interest on funds invested in a utility capital project, and Overheads are costs associated with the Project for certain services including, but not limited to, labor, general construction, and fleet, which are a calculated percent against the Project value. AFUDC totals about \$31.4M, and Overhead totals approximately \$46.8M.

**This is a high-level estimate of the approximately 19.3 acres of permanent easement to be acquired by UI based on the number of acres and an estimated cost per acre. A lower estimate of \$30M was also provided by UI. The higher original estimate of \$32.2M is used above to be conservative.

***The total cost has an accuracy band of +/- 25 percent, consistent with PP4. Substation upgrades would comprise less than 1 percent of the total cost.

(UI 1, Vol. 1, p. 2-17; UI 3, responses 10, 11 and 13; Tr. 1, p. 25; UI 12, response 77)

Comment: As demonstrated by the Town’s expert appraiser, Peter Vimini, who was the only expert appraisal witness to testify, the actual cost of acquiring easements is probably three to five times higher than UI’s estimate – or between \$90 million and \$150 million. (Tr. 7, pp. 233-234). Therefore, conservatively, the total estimated cost of UI’s preferred Project is \$312,800 – \$372,800.

270. UI’s estimated cost to install the Project underground from Structure P648S to Congress Street Substation is \$1 billion. (UI 1, Vol 1, pp. 9-9 to 9-10; UI 16)

Comment: This finding should be revised to reflect that UI overstated the cost of this underground estimate, as noted by Chairman Morissette during the Council’s February 1, 2024 meeting and in accordance with the testimony of Messrs. Orton and Awad. (See Fairfield PFOF ¶¶ 48–67).

292. Route 1 and Fairfield Avenue are not wide enough to allow the required separation between the 115-kV cables and the 345-kV cables. UI also notes that the Route 1 corridor is congested, and duct banks would need to be located within that corridor to accommodate a Route 1 underground route. Thus, UI would have to locate its 115-kV cables outside of these road ROWs, on private properties. (UI 1, Vol. 1, p. 9-7; Tr. 6, p. 116)

Comment: This finding should be revised to reflect that UI has not performed the necessary studies to determine whether Route 1 or Fairfield Avenue are wide enough to accommodate both lines. Contrary to this finding, UI admitted that there is no rule requiring a separation of 10-12 feet, and both of the other expert witnesses, Messrs. Orton and Awad, testified that there is no such rule. UI would have to perform thermal studies to determine the necessary separation, and UI admitted that it has not performed those studies. (Fairfield PFOF ¶¶ 69–75).

320. Sag does not factor into the height of structures; a smaller conductor will not necessarily decrease the structure height. (Tr. 6, p. 132).

Comment: This finding should be revised to state the opposite. In fact, the heavier the conductor, the greater the sag, which then requires higher structures and wider foundations. UI admits that the pole heights are based upon maximum sag, which is dependent upon the diameter of the wire installed on the poles (Tr. 5, p. 97:12-17; Tr. 6, pp. 122:24-123:13), that increased sag requires higher poles (Tr. 6, p. 121:10-14), that heavier conductors cause greater sag (Tr. 6, p. 122:18-23), and that heavier wires require deeper foundations (Tr. 5, p. 97:18-20). UI also concedes that this design choice is the reason why the widths of its proposed permanent easements “cannot be reduced” (UI 21 , A-SCNET 2-31) and that the size of the easements are defined by the “facilities.” (Tr. 4 , p. 115:3-4).

384. The total acreage of easement required for the Hannon-Morrisette Alternative would be approximately 8 acres for the section of the 1130 Line between Sasco Creek and the railroad track crossing to reach Ash Creek. This does not include temporary construction easements on the north side of the railroad ROW or on the south side of the railroad ROW that are needed for access and bonnet removal. (UI 19, LF3-2; Tr. 7, pp. 181-182)

Comment: This finding should be deleted. UI has not presented a design of the Hannon-Morrisette Alternative, and any such design should be adopted in a manner that will maintain pole heights at the same height as the existing 1130 line, and that will avoid easements over sensitive areas to the north. The record fails to provide any support for the alleged 8 acres of easements needed under this alternative, and the Town urges the Council to require UI to design this alternative without the need for easements over sensitive areas.

386. Permanent easement accounts for the sag and sway of the transmission lines at certain wind and ice loading conditions. Reducing the height of the structures or the size of the conductor will not reduce the size of the permanent easement. (Tr. 6, pp. 153-155)

Comment: This finding should be revised to state the opposite. On cross-examination, UI admitted that reducing the height of the structures or the size of the conductor will reduce the size of the permanent easement. (See Comment to Finding of Fact 320, supra)

392. A double-circuit line requires a wider easement. There would be no cost reduction associated with easements on the north side of the railroad ROW. (Tr. 4, pp. 114-117; Tr. 6, p. 183).

Comment: This finding should be deleted. UI has not presented a design of the Hannon-Morissette Alternative, and any such design should be adopted in a manner that will maintain pole heights at the same height as the existing 1130 line, and that will avoid easements over sensitive areas to the north. The record fails to provide any support for the need for wider easements under this alternative, and the Town urges the Council to require UI to design this alternative without the need for easements over sensitive areas.

609. For the Hannon-Morissette Alternative involving using double-circuit structures from Catenary Structure 648S and Ash Creek Substation Connection, the existing UI infrastructure for this portion of the transmission route is visible year-round from approximately 761 acres* (11.0% of the Study Area**) and seasonally visible from about 600 acres (8.7% of the Study Area).

*Approximately 265 acres out of the 761 acres is over open water.

**The one-mile radius Study Area for this portion of the route is approximately 6,910 acres.

(UI 19, Late Filed Exhibit 3-5; UI 19, Late Filed Exhibit 3-11, p. ii)

Comment: This finding should be deleted. UI has not presented a design of the Hannon-Morissette Alternative, and any such design should be adopted in a manner that will maintain pole heights at the same height as the existing 1130 line, and that will avoid easements over sensitive areas to the north.

611. The Hannon-Morissette Alternative would include structures approximately 20 to 25 feet taller than the existing structures. (Tr. 6, pp. 163-164)

Comment: This finding should be deleted. UI has not presented a design of the Hannon-Morissette Alternative, and any such design should be adopted in a manner that will maintain pole heights at the same height as the existing 1130 line, and that will avoid easements over sensitive areas to the north.

612. The Hannon-Morissette Alternative would not appreciably reduce the indirect visual impacts south of the railroad tracks, relative to the proposed Project. Notwithstanding, this alternative would increase the distance by shifting the transmission line centerline to the north by ~84 feet. (UI 19, Late Filed Exhibit 3-6; UI 1, Vol. 2, 1" = 400' Maps – Mapsheets 1 through 4)

Comment: This finding should be deleted. UI has not presented a design of the Hannon-Morissette Alternative, and any such design should be adopted in a manner that will maintain pole heights at the same height as the existing 1130 line, and that will avoid easements over sensitive areas to the north.

Respectfully submitted,

TOWN OF FAIRFIELD

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