

STATE OF 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, : OCTOBER 13, 2023
 PEQUONNOCK AND CONGRESS STREET :
 SUBSTATIONS TRAVERSING THE :
 MUNICIPALITIES OF BRIDGEPORT AND :
 FAIRFIELD, CONNECTICUT. :

**APPLICATION OF STEPHEN F. BOCCAROSSA TO INTERVENE UNDER C.G.S.
§22A-19, §4-177a, §16-50g, §16-50n, §16-50o, AND §22a-120**

I. PRELIMINARY REPORT

Stephen F. Boccarossa (the “Proposed Intervenor”), owner of the property located at 1828 Post Road, Fairfield, Connecticut (the “Site”) hereby moves the Connecticut Siting Council (the “Council”) to become a party intervenor in the above captioned case, brought by petition of the United Illuminating Company (“UI”). The purpose of this intervention is to participate in these proceedings so as to prevent unreasonable impacts to the natural resources of the Town, State and Site, including, but not limited to: scenic vistas; environmental impact from the removal of native

trees and use of herbicides; land seizure for new easements; and operations that will affect the use, operation and enjoyment of the Site.

II. RELEVANT FACTS

The UI application for a Certificate of Environmental Compatibility and Public Need (the “Application) for the Fairfield to Congress Railroad Transmission Line 115-kilovolt (“kV”) Rebuild Project consists of the relocation and rebuild of its existing 115-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. The Application also involves the rebuild of two existing 115-kV transmission lines along 0.23 miles 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.

The Proposed Intervenor enjoys the property rights they have acquired without easements, a scenic view and improving wetlands and environmental health in and around the area of the proposed facilities in the Town, and use and enjoyment of the existing building and property. The proposed electrical transmission facilities will have a negative impact on the scenic vistas and natural resources of the Site and its surrounding areas due to the building of new electrical transmission lines that rise significantly above the tree line (110’-140’). In addition, the proposed electrical transmission facilities and the proposed permanent easements will have a negative impact on the use and development of the Site and its existing building.

The Proposed Intervenor will be specifically and substantially affected by the viewshed of the proposed activities of UI. The Proposed Intervenor is likely to suffer property value loss different from and greater than that of the general public due to the proximity of the proposed UI activities to the Site and direct impacts to the Site through the installation of utility poles, new proposed easements and proposed work pad areas. As a result, the Council is being asked to render a decision which will impact the substantive rights of the Proposed Intervenor.

UI’s Towers fail to meet the requirements of local regulations of the Town of Fairfield, including the Town Plan of Conservation and Development, in a way which fundamentally harms

the general welfare of the community. In addition, under Sec. 31.2.21 of the Fairfield Zoning Regulations, the definition of “Lot Area and Shape” of a property within the Town of Fairfield excludes any area of land subject to above ground public facilities from being included in the calculation of lot area. The proposed UI easements will negatively impact the use and value of the Site due to the loss of lot area as calculated under the Fairfield Zoning Regulations. This project will also restrict required access to the Site.

The Proposed Intervenor intends to submit evidence which has not previously been considered, in the form of expert testimony which will substantiate the feasibility of available alternatives to the proposed facilities that have less visual impact, thereby assisting the Council in complying with its mandate to minimize impact as required by C.G.S. §16-50g and §16-50p(3)(G)(b)(1). The Proposed Intervenor will demonstrate that the UI design does not incorporate the best available technology, electric transmission equipment and location for reducing the visual impacts of the facilities, in that the design fails to fully consider impacts to property owners, natural habitats, neighboring property uses, and nearby homes, businesses and municipalities.

The Proposed Intervenor participating will be in the interests of justice and is proper under CEPA in that the evidence and testimony to be given will show that the proposed activity for which UI seeks a certificate is likely to unreasonably harm the public trust in the air, water or other natural resources of the State of Connecticut in that, if granted, the proposed activity will, *inter alia*, unreasonably impair the visual quality of the environment in and around the transmission line near the Site; and is reasonably likely to cause viewshed deterioration that is unreasonable because at least one feasible alternative solution of lesser impact exists.

Due to the expedited nature of these proceedings, the Proposed Intervenor asserts that good cause exists for the timing of the filing of this application to intervene.

III. LEGAL ARGUMENT

Pursuant to Section 16-50j-15a(c) of the Council’s Regulations, “[t]he council will determine the proposed intervenor’s participation in the proceedings, taking into account whether said participation will furnish assistance to the council in resolving the issues of the case, is in the interests of justice, and will not impair the orderly conduct of the proceedings.” As set forth above, this standard is readily met.

“It is clear that one basic purpose of [the Environmental Protection Act of 1971, §22a-15] is to give persons standing to bring actions to protect the environment” Belford v. New Haven, 170 Conn. 46, 53-54 (1975). Indeed, statutes “such as the EPA are remedial in nature and should be liberally construed to accomplish their purpose.” Avalon Bay Communities, Inc. v Zoning Commission of the Town of Stratford 87 Conn. App. at 548; Keeney v. Fairfield Resources, Inc., 41 Conn. App. 120, 132-33 (1996). Additionally, in Red Hill Coalition, Inc. v Town Planning & Zoning Commission, 212 Conn. 727, 734 (1989) the Court stated: “[S]ection 22a-19[a] makes intervention a matter of right once a verified pleading is filed complying with the statute, whether or not those allegations ultimately prove to be unfounded;” *see also* Polymer Resources, Ltd. V. Keeney, 32 Conn. App. 340, 348-49 (1993) (“[Section] 22a-19[a] compels a trial court to permit intervention in an administrative proceeding or judicial review of such a proceeding by a party seeking to raise environmental issues upon the filing of a verified complaint. The statute is therefore not discretionary.”) C.G.S. Section 22a-19(a) provides that any person “may intervene as a party on the filing of a verified pleading asserting that the proceeding or action for judicial review involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state. C.G.S. Section 22a-19(b) provides that the Connecticut Siting Council “shall consider the alleged unreasonable pollution, impairment or destruction of the public trust in the air, water or other natural resources of the state and no conduct shall be authorized or approved which does, or is reasonably likely to, have such effect as long as, considering all relevant surrounding circumstances and facts, there is a feasible and prudent alternative consistent with the reasonable requirements of the public health, safety and welfare.”

Upon the filing of the verified pleading and approval by the Council, the Proposed Intervenor shall become a party with statutory standing to appeal, and that right to appeal is independent of any other party. Mystic Marinelife Aquarium, 175 Conn. At 499-500. Even the denial of an application to intervene under § 22a-19 may be appealed by filing an original appeal for improper denial of intervenor status. CT Post Limited Partnership v. New Haven City Planning Commission, Conn. Sup. 2000 WL 1161131 (July 21, 2000, Downey, J.).

CONCLUSION

Based on the foregoing, the Proposed Intervenor respectfully submits that this application requesting intervenor status should be granted.

RESPECTFULLY SUBMITTED BY:

STEPHEN F. BOCCAROSSA

By: _____


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