

CONNECTICUT SITING COUNCIL

IN RE:

THE UNITED ILLUMINATING COMPANY (UI) :
APPLICATION FOR A CERTIFICATE OF :
ENVIRONMENTAL COMPATIBILITY AND PUBLIC : DOCKET NO. 516
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 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 : NOVEMBER 2, 2023
FAIRFIELD, CONNECTICUT :

**PRE-FILED TESTIMONY OF THOMAS SCHINELLA,
ON BEHALF OF 2190 POST ROAD, LLC**

Q1. What is your name and address?

A1. My name is Thomas Schinella and my office address is 929 Kings Highway East, Fairfield, Connecticut.

Q2. Have you ever previously testified before the Connecticut Siting Council (the "CSC")?

A2. No.

Q3. Why are you testifying before the CSC in this proceeding?

A3. I am providing testimony on behalf of the 2190 Post Road, LLC (the “LLC”) to address the devastating impact of this Application on property owned by the LLC at 2190 Post Road in Fairfield, Connecticut (the “LLC Property”).

Q5. Can you please tell me about the LLC Property?

A5. Yes, the subject property is a vacant commercial property consisting of 6.23 acres of land that is primed for development. The property has +/- 1,000 feet of frontage on the busiest retail road in the state of Connecticut. Not only is the property walking distance to downtown Southport and downtown Fairfield it is also a short walk to the Southport Train Station and the Fairfield Train Station.

Q6. Why do you believe the LLC Property is primed for development?

A6. I believe that the LLC Property is one of the best development sites in Town of Fairfield that is immediately ready for development. The LLC Property is located on one of the most sought after residential and commercial thoroughfares in Connecticut and abuts the Mill Pond. There are many potential approved uses of the LLC Property under the Fairfield Zoning Regulations, including office, medical, hotel, retail and multifamily housing. This translates into a diverse and equitable range of development opportunities. Additionally, in regards to multifamily, the LLC Property is eligible under the Fairfield Zoning Regulations for a zone change to a transit-oriented development zone which can provide approval for up to fifty (50) bedrooms per acre of multifamily housing.

Q7. Does UI propose to take an easement(s) on the LLC Property?

A7. Yes, UI proposes to take an easement varying from approximately six feet (6ft) to twenty-one feet (21ft) in depth along the northern edge of the parcel. UI proposes to also take a temporary easement for access, construction, and maintenance.

Q7. Does UI propose to construct any monopoles on the LLC Property?

A7. Yes. UI proposes to construct three monopoles on the LLC Property. First, the monopole described as *P673S* is one hundred twenty-five feet (125 ft) in height. Second, the monopole that is described as *P675S* is one hundred and fifteen (115 ft) in height. Third, the monopole described as *P676S* is one hundred and five (105 ft) in height.

Q8. Is the LLC opposed to granting the easement to UI and the proposed construction of the monopoles on the LLC Property?

Q8. Yes, the LLC is vehemently opposed to granting the proposed easement to UI and opposed to the construction of the three monopoles on the LLC Property

Q9. Is the LLC going to voluntarily grant the easement(s) to UI or is UI going to need to exercise eminent domain to take the proposed property rights from the LLC?

Q9. The LLC will not voluntarily grant the easement(s) to UI and UI will need to exercise eminent domain in order to take the proposed property rights from the LLC.

Q10. What is the LLC's position with regard to UI's Application?

A10. The LLC is adamantly opposed to the Application for many reasons, including but limited to: 1) it will prevent the highest and best use of the LLC Property; 2) it will otherwise significantly impair the fair market value; 3) per UI's easement agreement (identified as attachment BWC-8-1 in the record), it will severely restrict use of the LLC Property on a temporary basis for around eighteen (18) to thirty-six (36) months during the period of the temporary construction easement; 4) it will significantly restrict use of the LLC Property on a permanent basis per the easement agreement and 5) there is a strong likelihood that it will result in environmental damage to the LLC Property and/or the surrounding area.

Q11. How would you describe the highest and best use of commercial property?

A11. The definition of the "highest and best use" in the Appraisal of Real Estate, which is published by the Appraisal Institute, is "the reasonably probable and legal use of vacant land or improved property that is physical possible, appropriately supported, financially feasible and that results in the highest value."

Q12. How will the Application prevent the highest and best use of the LLC Property?

A12. The highest and best use of the LLC Property will result in the highest property value, and thus generated income. The proposed easements and construction of the three gigantic monopolies will not permit the owner of the LLC Property to obtain the highest value for the LLC Property when it is fully developed.

Based on current market conditions, the highest and best use of the LLC Property is most likely a mixed-use project with a significant number of apartment units. Over the past sixteen (16) months, the owner lost two different deals for this type of project where both prospective developers ultimately rescinded their offers based on concerns about this Application.

The first deal that was lost was for a non-subordinated, long-term ground lease for ninety-nine (99) years on a triple net basis with a significant base annual rental rate. For the first deal, the initial letter of intent was issued on or around August 1, 2022 and the second final letter of intent was issued on or around December 2, 2022. The potential developer terminated the deal on August 31, 2023 due to this Application.

The second potential deal was also for a mixed-use development with apartments with similar ground lease terms as the first deal. The initial letter of intent was issued on or

around May 9, 2023. The final letter of intent was issued on or around July 10, 2023. The second potential developer terminated the second deal on or around August 24, 2023 because of concerns regarding this Application.

The market has already confirmed for the owners of the LLC that any experienced and capable developer is not going to take the risk of developing the LLC Property for a significant number of apartment units with the expected construction of the monopoles and transmission wires on the LLC Property, the unknown period of the temporary construction easement and the significant restrictions on the LLC Property as set forth in the permanent easement. Furthermore, any lender that would need to fund the new construction would have the same concerns during its underwriting phase and either refuse the deal or build in higher interest rates and/or bank fees to mitigate the additional risk. To the extent that any developer would take on those risks, he/she would want such a substantial discount on the deal terms so that the deal would then no longer be the highest and best use of the Property. Essentially, some other considerably less profitable use would become the next best use of the LLC Property, albeit at a significantly lesser value, potentially to the point where the Application will lead to an effective taking of the LLC Property. Therefore, the use that is the highest and best use of the LLC Property without the existence of the Application will no longer be a viable use if the Application is approved.

Q13. Why will the easement and monopoles on the LLC Property otherwise significantly impair its fair market value?

A13. Any secondary use that the owner would be relegated to accept for the LLC Property if the Application is approved will also be significantly reduced in value by the existence of the gigantic monopoles, transmission wires, restrictions during the temporary construction easement and permanent restrictions on use in the permanent easement. Any developer of the LLC Property will take into account all of the risks associated with the temporary construction easement, permanent restrictions on use in the permanent easement and effects of the monopoles and transmission lines, and the developer will need to mitigate those risks by reducing what the developer is ultimately willing to pay the owner for rent on a land lease or to purchase the LLC Property. The easement and the three monopoles located on the LLC property will negatively impact the fair market value of the LLC property today and in the future. The real estate development landscape is always changing therefore as a land owner you always need to be able to pivot. Granting the easement for UI will now and forever impact the floor area ratio ("FAR") of the LLC property, thus decreasing the amount of density that can be developed or redeveloped on the LLC property and causing a permanent negative impact on the value of the LLC property. The three monopoles create an eyesore and are detrimental to the marketing of the LLC property and any tenant or development that locates there.

Q16. Why would the temporary construction easement negatively impact the value of the LLC Property?

A16. For a significant period that will be around eighteen (18) to thirty-six (36) months, UI will burden the LLC Property with a “temporary workspace area” that is in addition to the area of the permanent easement. The owner’s plans for the development of the Property will be significantly curtailed by having to somehow work around UI’s temporary workspace area which will burden the LLC Property for an 18-to-36-month period that will take place at some unknown future time. How does anyone who attempts to develop the LLC Property in the near future account for a restriction on the use of the LLC Property for some unknown period of time in the near future?

Q17. Why would the permanent easement negatively impact the value of the LLC Property?

A17. The easement agreement provides UI with the right to “continued maintenance” including for future repairs, expansions, and relocations, all of which require ongoing access and modification to the LLC Property. In order to perform such actions, the easement reserves for UI the the right to remove obstructions considered to be within or projecting into the Easement Area (including anything that may be developed on the LLC Property at any time). If UI decides in the future they want to relocate or expand equipment and one of our improvements to the LLC Property stands in the way, UI will have the right to remove it at will without remedy to us. UI will have the right to construct, reconstruct, erect, install, maintain, inspect, control, repair, expand, remove, replace, relocate and operate any related structures and equipment (such as poles, towers, circuits, lines, cables, wires, crossarms, guy wires, monuments, etc...) which all impacts the sites ability to be developed and thus its true value.

The easement agreement literally gives UI a veto over any future construction on the LLC Property if UI determines that said construction “**might be** liable to cause damage to or otherwise adversely affect any of the Facilities”. Keep in mind that the stand to be applied is “might be liable”. That is a fairly broad standard which allows UI to withhold consent if it determines that (within its sole discretion) the construction **might be** liable to cause damage. Based on the manner in which UI has approached this Application with affected property owners such as us and the community, I have no faith whatsoever that I can trust that UI will provide its required consent to us for the construction of a future project on the LLC Property.

How is this fair? Having UI’s permanent presence means we, as rightful property owners, will not be able to develop our land in a manner that UI could determine (within its sole discretion) **might** interfere with or endanger UI’s access to or facilities on our land (which at that point has essentially been taken to be their land).

Q18. What are your concerns about environmental damage to the LLC Property or other properties in the area from the Application?

A18. The soil within a train corridor is generally known to be contaminated. UI is going to construct monopoles on the LLC Property in an area near the train corridor. Any developer or user of the LLC Property, or lender that is going to fund a project on it, is going to be reasonably concerned that when the monopoles are constructed said construction will cause contamination to leach onto the LLC Property, and/or into the ground water table below the LLC Property, and/or into the adjacent Mill River.

Q19. Does this conclude your testimony?

A19. Yes.

I, Thomas Schinella, duly authorized on behalf of the 2190 Post Road, LLC, duly sworn, hereby verify that this statement was prepared by me or under my direct supervision and is believed to be true and accurate to the best of my knowledge and belief.

Thomas Schinella
Thomas Schinella, duly authorized

11/2/23
Date

The above signed, Thomas Schinella, personally appeared before me and verified that the above pre-file testimony for the Connecticut Siting Council is true and accurate and that she adopted it by her free act and deed on this ____ day of November, 2023.

Luanne M. Ryan

Commissioner of Superior Court
Notary Public/
My Commission expires

LUANNE M. RYAN
NOTARY PUBLIC
State of Connecticut
MY COMMISSION EXPIRES AUG. 31, 2027

RESPECTFULLY SUBMITTED BY:
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