

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 UP'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 UP'S EXISTING ASH CREEK, RESCO, :
PEQUONNOCK AND CONGRESS STREET : NOVEMBER 21, 2023
SUBSTATIONS TRAVERSING THE :
MUNICIPALITIES OF BRIDGEPORT AND :
FAIRFIELD, CONNECTICUT :

MOTION TO PRECLUDE JAMES A. COLE AS THE UNITED ILLUMINATING
COMPANY'S WITNESS

The intervenors, SASCO CREEK NEIGHBORS ENVIRONMENTAL TRUST
INCORPORATED, STEPHEN OZYCK, ANDREA OZYCK, KARIM MAHFOUZ, WILLIAM
DANYLKO, DAVID PARKER, 2190 POST ROAD LLC, INVEST II, INTERNATIONAL
INVESTORS, SOUTHPORT CONGREGATIONAL CHURCH, PEQUOT LIBRARY
ASSOCIATION, TRINITY EPISCOPAL CHURCH AND SASQUANAUG ASSOCIATION
FOR SOUTHPORT IMPROVEMENT, INC. (collectively, the "Intervenors"), hereby object to

The United Illuminating Company's ("UI") request to amend its witness list and respectfully request that the Connecticut Siting Council ("CSC") preclude James A. Cole from providing testimony at the evidentiary hearing.

UI has provided no justification for its untimely request to add Mr. Cole as a witness for the CSC's upcoming evidentiary hearing on November 28, 2023. In Interrogatories SCNET 1-1 and SCNET 2-1, the Intervenors requested that UI identify by name, position and address, "any person answering or assisting in responding to" the Intervenors' interrogatories and requests for production. UI responded, on the record, that "[I]ndividuals responsible for the preparation of a response to an interrogatory are identified on each response. Also refer to UI's pre-hearing submission filed on July 18, 2023 as amended on August 11, 2023." See A-SCNET 1-1 and A-SCNET 2-1.

Mr. Cole is not identified in any UI interrogatory response. Nor is he identified or listed in UI's pre-hearing submission filed on July 18, 2023 as amended on August 11, 2023. Therefore, by UI's own admission, Mr. Cole did not answer or assist in responding to any of the interrogatory responses or late-filed exhibits which are the subject of the Council's November 28, 2023 evidentiary hearing.

UI has not identified the need for Mr. Cole as a witness. UI simply states that Mr. Cole "will provide information on the Project and its design, as well as technical information concerning the Project's safety and reliability, the site selection process, and the environmental effects and proposed mitigation measures, and other matters as outlined in the Company's Application to the Council." These are all issues that UI's fourteen previously-identified witnesses should be competent to address. If Mr. Cole is required to provide accurate and complete responses to the Council's and the intervenors' interrogatories and questions on cross,

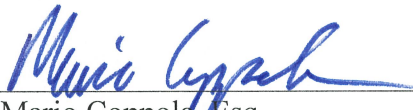
then he should have been identified previously by UI. Furthermore, this raises concern regarding the adequacy and transparency of UI's previous submissions, interrogatory responses and answers during cross examination.

Additionally, the Intervenors, BJ's Wholesale Club, Inc. ("BJ's") and Superior Plating Company ("SPC") completed their cross examination of UI's witnesses during the Council's November 16, 2023 evidentiary hearing. Permitting an additional, and seemingly unnecessary, witness at this juncture would deprive the Intervenors, BJ's and SPC of their right to cross examine Mr. Cole thereby depriving those parties of a fundamentally fair proceeding. As this Council is aware, C.G.S. § 4-178 permits a party to "conduct cross-examinations required for a full and true disclosure of the facts." Conn. Gen. Stat. § 4-178(5).

In the alternative, if UI is permitted to amend its witness list for the Council's November 28, 2023 continued evidentiary hearing, the Intervenors respectfully request that the CSC issue an order which provides that the Intervenors an opportunity to: 1) cross-examine Mr. Cole on issues related to UI's November 2, 2023 interrogatory responses and late-filed exhibits; and 2) disclose and produce after the CSC's deadline their own witness in the same area of specialty as Mr. Cole to provide pre-file testimony prior to the following evidentiary hearing. As stated above, deprivation of the right to cross-examine a key witness and to produce their own witness in the same area after the CSC deadline would render this proceeding fundamentally unfair and divest the Intervenors of their opportunity to attain a full and true disclosure of the facts.

WHEREFORE, the Intervenor respectfully move the Siting Council for an order denying UI's request to amend its witness list or, in the alternative, granting the Intervenor's request to cross-examine James A. Cole during the Council's November 28, 2023 continued evidentiary hearing and to produce after the CSC deadline their own witness in the same area of specialty to provide pre-file testimony prior to the following evidentiary hearing.

**RESPECTFULLY SUBMITTED BY:
SASCO CREEK NEIGHBORS ENVIRONMENTAL TRUST
INCORPORATED, STEPHEN OZYCK, ANDREA OZYCK,
KARIM MAHFOUZ, WILLIAM DANYLKO, DAVID
PARKER, 2190 POST ROAD LLC, INVEST II,
INTERNATIONAL INVESTORS, SOUTHPORT
CONGREGATIONAL CHURCH, PEQUOT LIBRARY
ASSOCIATION, TRINITY EPISCOPAL CHURCH AND
SASQUANAUG ASSOCIATION FOR SOUTHPORT
IMPROVEMENT, INC.**

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