

BEFORE THE CONNECTICUT SITING COUNCIL

In re: NTE Connecticut, LLC application
for a Certificate of Environmental
Compatibility and Public Need for the
construction, maintenance, and operation of
a 550-megawatt dual-fuel combined cycle
electric generating facility and associated
electrical interconnection switchyard
located at 180 and 189 Lake Road,
Killingly, Connecticut

Docket No. 470

Filed: October 25, 2016

REQUEST FOR PARTY STATUS AND PETITION TO INTERVENE BY
SIERRA CLUB

Pursuant to Connecticut General Statute § 4-177a(a) and (b), Sierra Club requests that it
be granted party status, and, in the alternative, petitions to intervene, in the above-captioned
docket:

Petitioner's name and addresses. Petitioner is Sierra Club with the following
headquarters and local addresses:

Sierra Club, National Headquarters
2101 Webster Street, Suite 1300
Oakland, CA 94612
Tel: (415) 977-5500

Sierra Club, Connecticut Chapter
2074 Park Street, Suite 308
Hartford, CT 06106
Tel: (860) 236-4405

Petitioner's representative. Copies of all notices, pleadings, orders, and other
communications in this docket should be directed to Petitioner's representative:

Joshua Berman
Staff Attorney
Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
(202) 650-6062

josh.berman@sierraclub.org

Service by email only is requested.

A. Sierra Club Requests That It Be Granted Party Status in Docket No. 470

1. Sierra Club requests leave to participate as a party in Docket No. 470. The Sierra Club is entitled to participate in this proceeding as a party pursuant to Conn. Gen. Stat. § 16-50n(a)(3). Pursuant to this section, “any domestic . . . nonprofit corporation . . . formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or biological values . . .” is authorized to be a party upon filing with the Council a notice of intent to be a party. Sierra Club is a nonprofit, membership organization incorporated in California with more than 640,000 members nationally and more than 8,900 members in Connecticut. Sierra Club’s mission is to explore, enjoy, and protect the wild places of the earth; to practice and promote the responsible use of the earth’s ecosystems and resources; to educate and enlist humanity to protect and restore the quality of the natural and human environments; and to use all lawful means to carry out these objectives. In furtherance of this mission, Sierra Club is working to promote a cleaner, healthier, and more sustainable natural environment by rapidly replacing fossil fuel-burning electric generation with less-polluting forms of energy. Sierra Club has championed policies and actions in Connecticut that help overcome barriers to energy efficiency, solar power, and wind power, as low-cost, low-risk alternatives to burning fossils fuels. Sierra Club believes that these efforts are essential for Connecticut to remain on track to meet its mid- and long-term climate goals. Because Sierra Club is a domestic, nonprofit corporation formed in whole or in part to promote conservation and to protect the environment, personal health, and biological values, Sierra Club is entitled to participate as a party pursuant to Conn. Gen. Stat. § 16-50n(a)(3).

2. The Sierra Club is also entitled to participate in this proceeding as a party pursuant to Conn. Gen. Stat. § 22a-19. Pursuant to that section, “any . . . organization or other legal entity 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.” The proposed facility will unreasonably pollute and impair the public trust in air, water and other natural resources of the state. According to the permit application, the proposed facility has the potential to emit up to 2 million tons of carbon dioxide equivalents annually. This figure represents approximately 5% of Connecticut total statewide greenhouse gas emissions from all sectors according to the Connecticut Department of Energy and Environmental Protection’s recently-released 2013 greenhouse gas emission inventory. The additional greenhouse emissions from the proposed facility will impair the state’s ability to achieve its mid- and long-range climate goals. The facility also seeks authorization to emit more than 100 tons per year of particulate matter, approximately 140 tons per year of ozone (smog)-forming nitrogen oxides, and nearly 15 tons per year of hazardous air pollutants. Notably, Connecticut suffers from some of the levels of highest ground-level ozone in the Eastern United States and is currently failing to meet both the U.S. Environmental Protection Agency’s (EPA’s) 2008 health-based primary National Ambient Air Quality Standard (NAAQS) for ground-level ozone and EPA’s more protective 2015 primary ozone NAAQS. Ground-level ozone is a harmful air contaminant that inflames the lungs and triggers asthma attacks and is particularly harmful for children, the elderly, and people with respiratory disease. In addition to air impacts, the facility will have localized impacts on water and natural resources. In particular, the proposed facility will adversely impact wetlands on the site, fragment forests, and potentially

jeopardize the continued existence of sensitive wildlife species on the site. The application identifies at least one Connecticut Endangered Species (little brown myotis) and four Connecticut Species of Special Concern (broad-winged hawk, Eastern red bat, hoary bat, silver-haired bat) that were observed during wildlife and acoustic surveys of the site. The air emissions from the proposed facility, including the facility's greenhouse gas emissions, in conjunction with its localized impacts to water and natural resources will unreasonably impair the public trust in these resources.

3. Manner in which Sierra Club is substantially and specifically affected. The proposed facility will have a substantial adverse impact on Sierra Club and its members both locally and throughout Connecticut. The Sierra Club has more than 230 members in Windham County and over 8,900 members in total in the State. As described in Paragraph 2, the facility represents a massive new source of greenhouse gas emissions, a major source of criteria air pollutants, and a substantial source of hazardous air pollutants. It will degrade wetlands on the site, fragment forests, and harm local wildlife, including wildlife of special state interest. Sierra Club and its members have a direct and substantial interest in the destructive health and environmental impacts that would be caused by the construction of this facility, as well as the air and climate pollution that would result from the operation of the facility.

4. Contention of Sierra Club. This Council may not grant a certificate under Section 16-50p of the Connecticut General Statutes unless it finds and determines both a public need and public benefit for the proposed facility. A public need exists only when a facility is necessary for the reliability of the electric power supply of the state. In addition, in order to grant a certificate, the Council must find and determine the nature of the probable environmental impact of the facility, alone and cumulatively with other existing facilities, and determine whether, alone or

cumulatively with other effects, the facility would conflict with state policies concerning the natural environment, ecological balance, public health and safety, historic and recreational values, forests and parks, air and water purity, and fish, aquaculture and wildlife. Sierra Club contends that the proposed facility is not necessary for the reliability of the electric power supply of the state and, therefore, that there is no public need for this facility. Moreover, the Sierra Club contends that construction and operation of this facility, which has the potential to single-handedly increase Connecticut's greenhouse gas emissions by 5%, conflicts directly with Connecticut's state policies on climate change. The lack of need for the facility, coupled with its conflict with existing state policies, necessitates denial of the application.

5. Manner and extent to which Sierra Club proposes to participate. If granted party status, Sierra Club will participate to the full extent permitted for parties. The Sierra Club will join the pre-filed direct expert testimony to be filed by party and intervenor Not Another Power Plant (NAPP). Sierra Club will support its case in writing and through cross-examination of the applicant's and other parties' witnesses at hearing.

6. Statutory authority for Sierra Club's request. Sierra Club is entitled to participate as a party pursuant to Sections 4-177a, 16-50n(a)(3), and 22a-19 of the Connecticut General Statutes, and Sections 16-50j-13 and 16-50j-14 of the Connecticut Siting Council Regulations.

7. Nature of the evidence that Sierra Club intends to present. As identified above in Paragraph 5, Sierra Club will join the pre-filed direct testimony to be filed by party and intervenor NAPP. Sierra Club may also present administrative notice items and additional documents through cross-examination concerning the need for the facility and its consistency with existing State climate policy.

8. Relief sought by Sierra Club. Sierra Club requests that the Connecticut Siting Council deny NTE's application in Docket No. 470 in its entirety.

B. In the Alternative, Sierra Club Seeks Leave to Participate as an Intervenor in Docket No. 470

In the event that the Connecticut Siting Council were to deny Sierra Club's request for party status, Sierra Club petitions, in the alternative, for intervenor status in Docket No. 470, pursuant to Connecticut General Statute § 4-177a:

9. Manner in which Sierra Club is affected. The Sierra Club incorporates its response in paragraph 3 above.

10. Manner in which intervenor's participation is in the interests of justice and will not impair the orderly conduct of the proceedings. Sierra Club has been working for many years in Connecticut to ensure that the State is on track to achieve its climate commitments in order to help avert the most severe impacts of climate change. To this end, the Sierra Club has been working to advance energy efficiency and renewable energy as cost-effective, carbon-free resources that can help the State meet its climate goals, while phasing out polluting and carbon-intensive fossil fuel generation. The proposed NTE facility, which is not needed for electric reliability and will emit up to 2 million tons of carbon dioxide equivalent greenhouse gases per year, has the potential to substantially offset the recent climate progress in Connecticut and to adversely affect the State's ability to achieve its longer-term climate goals. Granting Sierra Club leave to participate in this proceeding will ensure a full and fair evaluation of need and consistency with state climate policy and is therefore in the interests of justice. In addition, Sierra Club's intervention will not unduly broaden the issues or delay this proceeding. As stated above, Sierra Club will join the testimony that is being filed by party and intervenor NAPP. The

Council has already established a schedule for that testimony, and Sierra Club's participation will not affect or delay that schedule. Moreover, Sierra Club will abide by all scheduling orders established in this proceeding. Sierra Club's participation will therefore not impair the orderly conduct of this proceeding.

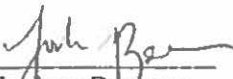
11. Manner and extent to which Sierra Club proposes to participate. If granted intervenor status, Sierra Club will participate to the full extent permitted for intervenors. As described in Paragraph 5 above, the Sierra Club will join the pre-filed direct expert testimony to be filed by party and intervenor NAPP and will support its case in writing and through cross-examination of the applicant's and other parties' witnesses at hearing.

12. Statutory authority for Sierra Club's request. Sierra Club should be granted leave to participate as an intervenor pursuant to Sections 4-177a and 16-50n(b) of the Connecticut General Statutes, and Sections 16-50j-15a and 16-50j-15b of the Connecticut Siting Council Regulations.

13. Nature of the evidence that Sierra Club intends to present. The Sierra Club incorporates its response in Paragraph 7 above.

14. WHEREFORE, Sierra Club respectfully requests that the Council enter an order granting it leave to participate as a party and, in the alternative, granting it leave to participate as an intervenor, in the above-captioned docket, and further requests parties to provide the undersigned with all pleadings, testimony, evidence and discovery filed in said dockets.

RESPECTFULLY SUBMITTED this 25th day of October, 2016.


Joshua Berman
Staff Attorney

Sierra Club
50 F St. NW, 8th Floor
Washington, DC 20001
(202) 650-6062
Josh.berman@sierraclub.org

VERIFICATION

I, Joshua Berman, representative of Sierra Club, being duly sworn, depose and say that I have read the foregoing Request for Party Status and Petition to Intervene, and that the allegations contained therein are true to the best of my knowledge:

By: Joshua Berman
Joshua Berman

Subscribed and sworn to me before this 25th day of October, 2016.

Sharon D Ball
Public Notary

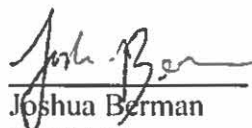


CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing document was electronically mailed to the following service list on October 25, 2016:

Kenneth C. Baldwin, Esq. Earl W. Phillips, Jr., Esq. Robinson & Cole LLP 280 Trumbull Street Hartford, CT 06103-3597 kbaldwin@rc.com ephillips@rc.com	John Bashaw, Esq. Mary Intel Miller, Esq. Reid and Riege, P.C. One Financial Plaza, 21st Floor Hartford, CT 06103 jbashaw@rrlawpc.com mmiller@rrlawpc.com
Mark Mirabito, Vice President NTE Connecticut, LLC 24 Cathedral Place, Ste. 300 St. Augustine, FL 32804 mmirabito@nteenergy.com kec.notices@nteenergy.com	Sean Hendricks Town Manager Town of Killingly 172 Main Street Killingly, CT 06239 shendricks@killinglyct.org
Chris Rega, Senior Vice President Engineering & Construction NTE Energy, LLC 800 South Street, Ste. 620 Waltham, MA 02453 crega@nteenergy.com	

This 25th day of October, 2016.



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