



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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### VIA ELECTRONIC MAIL

November 7, 2016

TO: Parties & Intervenors

FROM: Melanie A. Bachman, Executive Director *NAB*

RE: **DOCKET NO. 470** – 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.

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### 1. Requests and Motions

During the evidentiary hearing session held by the Connecticut Siting Council (Council) on November 3, 2016, the Council voted on the following requests and motions:

**a. Request from the Sierra Club (SC) for Party and CEPA Intervenor Status, dated October 25, 2016**

SC's request for party and CEPA intervenor status was granted **with the condition** that SC's attorney submit an application to the Council with copies to the service list on or before December 30, 2016 for an attorney not licensed to practice in Connecticut to participate in this state agency proceeding in compliance with the amended Pro Hac Vice Rule under Section 2-16 of the Superior Court Rules that takes effect January 2017 or, in the alternative, submit a written description as to why SC is not subject to the amended Pro Hac Vice Rule.

Pursuant to Conn. Gen. Stat. §16-50n(c), SC was grouped with Not Another Power Plant (NAPP).

All interrogatories are to be submitted on or before the close of business on Thursday, December 1, 2016. All pre-filed testimony, exhibits and responses to interrogatories are to be submitted to the Council and the service list on or before the close of business on Thursday, December 8, 2016 in accordance with the Council's revised schedule, dated October 19, 2016.

**b. Sierra Club Request for Pre-filed Administrative Notice Items, dated October 27, 2016**

SC's request for administrative notice was granted.



**c. Request from the Connecticut Fund for the Environment (CFE) for Party Status, dated October 26, 2016.**

CFE's request for party status was granted.

All interrogatories are to be submitted on or before the close of business on Thursday, December 1, 2016. All pre-filed testimony, exhibits and responses to interrogatories are to be submitted to the Council and the service list on or before the close of business on Thursday, December 8, 2016 in accordance with the Council's revised schedule, dated October 19, 2016.

**d. CFE's Motion to Dismiss NTE's Application, dated November 2, 2016**

CFE's motion was denied on the basis that the application was deemed complete by the Council on September 15, 2016 and the feasibility of the utility interconnections will be explored during the course of these proceedings.

**e. Request from Wyndham Land Trust, Inc. (WLT) for Party and CEPA Intervenor Status, dated October 27, 2016.**

WLT's request for party and CEPA Intervenor Status was granted and pursuant to Conn. Gen. Stat. §16-50n(c), WLT was grouped with NAPP.

All interrogatories are to be submitted on or before the close of business on Thursday, December 1, 2016. All pre-filed testimony, exhibits and responses to interrogatories are to be submitted to the Council and the service list on or before the close of business on Thursday, December 8, 2016 in accordance with the Council's revised schedule, dated October 19, 2016.

**f. NTE Connecticut, LLC's (NTE) Motion for Protective Order Regarding Responses 1, 3, 4, 5, 8, 10, and 11 to NAPP's Interrogatories, dated October 27, 2016.**

NTE's motion for protective order was granted.

**g. NTE's Appeal of the Municipal Regulate and Restrict Orders, dated October 27, 2016.**

NTE's Appeal of the Town of Killingly Regulate and Restrict Orders under Conn. Gen. Stat. §16-50x will be incorporated into the proceedings held on this application.

**h. NAPP's Request for Clarification Regarding the November 3, 2016 Evidentiary Hearing Procedures, dated October 31, 2016.**

In response to NAPP's request, clarification was provided as to the following questions:

1. Will all pending petitions and other motions be addressed prior to the evidentiary hearing?  
*Yes.*

2. In the absence of pre-filed testimony of the applicant, how will cross examination proceed as there is only a list of witnesses with resumes with no indication regarding what testimony is to be provided by each person? ***Submission of pre-filed testimony is not a requirement under Council regulations. NTE has provided a list of 14 witnesses and their responsibilities relative to the development of the application. Certainly, any question posed by any party or the Council will be answered by the appropriate witness.***
  3. Will entities that filed requests for party status be provided an opportunity to submit interrogatories to NTE and cross examine NTE at the November 15, 2016? ***Yes. Interrogatories are to be submitted on or before December 1, 2016 and pre-filed testimony is to be submitted on or before December 8, 2016. Furthermore, the new parties will have an opportunity to cross examine NTE at the November 15, 2016 evidentiary hearing and subsequent hearings held in this matter.***
  4. For cross examination on the unredacted interrogatory responses, will NTE be required to make witnesses available at a later date? ***Yes. If any party requests an opportunity to cross examine NTE on the unredacted responses to NAPP's Interrogatories 1, 3, 4, 5, 8, 10, and 11, the Council will schedule a closed proceeding at a later date when parties who have executed a Non-Disclosure Agreement under the Protective Order may cross examine NTE limited to the unredacted responses.***
- i. **NAPP's Motion for Stay and/or to Dismiss the Application of NTE, dated November 1, 2016.**

NAPP's motion was denied on the basis that the application was deemed complete by the Council on September 15, 2016 and the feasibility of the utility interconnections will be explored during the course of these proceedings.

- j. **NAPP's Motion to Further Extend the Pre-Filed Testimony of NAPP's Energy Needs Expert, dated November 2, 2016.**

NAPP's motion for a one week extension to submit Mr. Fagan's pre-filed testimony was granted with a new deadline of the close of business on Tuesday, November 15, 2016.

## 2. NTE Late-Filed Exhibits

NTE shall submit the following on or before the close of business on **November 28, 2016**:

- a. Submission of a Vernal Pool Analysis (including, but not limited to, a tabular format) per the Klemens and Calhoun, "Best Development Practices: Conserving Pool-Breeding Amphibians in Residential and Commercial Developments in the Northeastern United States" for Wetland A1, Wetland B and the vernal pool located on the Wyndham Land Trust property;
- b. Correction to the Amphibian and Reptile Table A-2 under Tab F of Volume II of the application; and
- c. Submission of information relative to the feasibility of using gray water.

NTE may submit to the Council a written request for an extension of time to submit any of the above-mentioned materials and information pursuant to §16-50j-22a of the Regulations of Connecticut State Agencies.

### 3. Continuation of the Evidentiary Hearing

The Council shall continue the evidentiary hearing on Tuesday, November 15, 2016, in Hearing Room One, Ten Franklin Square, New Britain, Connecticut, beginning at **11:00 a.m.**

The hearing shall commence with the continued cross examination of the applicant by the Council followed by cross examination of the applicant by the other parties and intervenors in the following order:

1. **Grouped Parties:** NAPP, SC and WLT;
2. Town of Killingly; and
3. CFE.

Thereafter, the evidentiary hearing will continue with the commencement of appearances and cross examination of the parties and intervenors in the following order:

1. **Grouped Parties:** NAPP, SC and WLT;
2. Town of Killingly; and
3. CFE.

Party and intervenor appearances will continue thereafter during the continued evidentiary hearing scheduled for Thursday, December 15, 2016.

The final deadline for submission of interrogatories is on or before the close of business on **Thursday, December 1, 2016**. This applies to all parties and intervenors, including the applicant.

The final deadline for submission of pre-filed testimony and responses to interrogatories is on or before the close of business on **Thursday, December 8, 2016**. This applies to all parties and intervenors, including the applicant.

**All testimony is required to be pre-filed in writing and distributed to the service list in accordance with the Council's schedule. Direct testimony at the hearings is not permitted.**

If you have any questions about Council procedures, please do not hesitate to contact me at the Council office at 860-827-2935.

Thank you.

MAB/MP/laf