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VIA FIRST CLASS AND ELECTRONIC MAIL

Robert Stein, Chairman
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Docket No. 190B—Meriden Gas Turbines, LLC Certificate of Environmental Compatibility and Public Need for a 530 MW Combined Cycle Generating Plant in Meriden, Connecticut. Reopening of this Docket Pursuant to Connecticut General Statutes § 4-181a(b) Limited to Council Consideration of Changed Conditions and a Decommissioning Plan – *City of Meriden’s Opposition to Motion of Meriden Gas Turbines, LLC to Clarify or Limit Scope of Proceeding*

Dear Chairman Stein:

On behalf of the City of Meriden (the “City”), we are submitting this letter in response to NRG Energy, Inc.’s May 20, 2013 Motion of Meriden Gas Turbines, LLC (“MGT”) to Clarify or Limit Scope of Proceeding (the “Motion”). The City opposes the Motion for several reasons.

First, the Council’s reopening of Docket No. 190 and the process for this current proceeding are wholly consistent with the Council’s prior decisions and its obligations under Conn. Gen. Stat. § 4-181a(b). In its Motion, MGT cherry-picks a few prior Council decisions, all of which involve the Council finding the absence of changed conditions, to support its theory that “irrefutable precedents” require bifurcation of the proceeding. However, MGT ignores many dockets in which the Council made a determination regarding changed conditions and modified its decision and order in a unified proceeding. *See, e.g.*, Docket No. 187 – Milford Power, LLC, Opinion for Connecticut General Statutes (CGS) § 4-181a (b) Proceeding, Decision and Order (April 7, 2009) (finding changed conditions and modifying Condition 1(b) of the Decision and Order); Docket No. 187A – Milford Power Company, LLC, Opinion (Dec. 2, 2010) (finding changed conditions and modifying the Decision and Order); Docket No. 189A – Lake Road Generating Company, Opinion, Decision and Order (January 19, 2012) (same); Docket No. NT-2010 – Nevas Commission, Opinion (March 17, 2011) (finding changed conditions and attaching conditions to various certificates and declaratory rulings). Notably, MGT fails to cite any statute or regulation that requires the Council to bifurcate a § 4-181a(b) proceeding. Consequently, the Council’s decision to consider both changed conditions and a decommissioning plan is proper and entirely consistent with Council precedent.

Second, bifurcating the proceeding would be an inefficient use of the Council’s and the parties’ time and resources because the evidence related to the existence of changed conditions and whether such changed conditions justify modifying the Council’s Decision and Order through a decommissioning plan are inextricably linked. Here, the Council must determine, among other things: (i) if the Council continues to

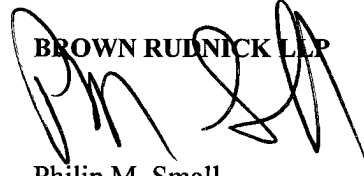
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have jurisdiction over MGT's 530-megawatt combined cycle electric generating facility (the "Project"), (ii) if MGT's abandonment of the Project is a changed condition, (iii) if MGT's possible failure to comply with conditions in the Decision and Order and the Council-approved Development and Management Plans constitutes a changed condition, and (iv) whether any changed conditions warrant a modification of the Decision and Order by the addition of an express condition requiring decommissioning the Project. Each of these issues requires an evaluation of the current state of the Project, an analysis of any ongoing environmental, visual, and safety impacts of the Project, and a determination as to what can and should be done to mitigate any such impacts. Bifurcating this proceeding would, therefore, cause unnecessary inefficiencies, delay and expense for all parties.

Finally, the Council is not precluded from considering MGT's abandonment of the Project as evidence of changed conditions. MGT cites a snippet of the hearing transcript to argue that the Council already considered the issue of MGT's abandonment and is, therefore, estopped from doing so in this proceeding. If anything, the transcript reveals that none of the parties involved contemplated the Project would be commenced, partially constructed, and then abandoned and, further, that MGT's predecessor committed to properly decommissioning the Project.¹ As a result, MGT's abandonment of the Project is plainly a valid and essential factor for the Council's consideration.

For the foregoing reasons, the City objects to the Motion and requests that it be denied.

Very truly yours,


BROWN RUDNICK LLP

Philip M. Small
Counsel for the City of Meriden

cc: Service List

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¹ See January 26, 1999 (11:00 AM) transcript, at Pg. 60 (testimony of Robert Erling: "if it was decided the plant was economically unviable, the plant would be dismantled, . . .").