



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

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February 17, 2011

TO: Parties and Intervenors

FROM: Linda Roberts, Executive Director *LR*

RE: **DOCKET NO. 225D** - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes § 4-181a(b) limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations in the Executive Report issued by the Thomas Commission.

By its Decision and Order dated February 8, 2011, the Connecticut Siting Council (Council) approved modifications to the November 21, 2002 Decision and Order issued for Docket No. 225 to include the attachment of conditions to the Certificate consistent with the findings and recommendations contained in the Thomas Commission Executive Report.

Enclosed are the Council's Findings of Fact, Opinion, and Decision and Order.

LR/RDM/laf

Enclosures (3)

c: State Documents Librarian

STATE OF CONNECTICUT)

ss. New Britain, Connecticut :

COUNTY OF HARTFORD)

I hereby certify that the foregoing is a true and correct copy of the Findings of Fact, Opinion, and Decision and Order issued by the Connecticut Siting Council, State of Connecticut.

ATTEST:



Linda Roberts
Executive Director
Connecticut Siting Council

I certify that a copy of the Findings of Fact, Opinion, and Decision and Order in Docket No. 225D has been forwarded by Certified First Class Return Receipt Requested mail, on February 17, 2011, to all parties and intervenors of record as listed on the attached service list, dated January 31, 2011.

ATTEST:



Lisa Fontaine
Fiscal Administrative Officer
Connecticut Siting Council

**LIST OF PARTIES AND INTERVENORS
SERVICE LIST**

Status Granted	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	Kleen Energy Systems, LLC	<p>Mr. William C. Corvo President Kleen Energy Systems, LLC P.O. Box 2696 Middletown, Connecticut 06457 (860) 632-1044 Biagio6539@aol.com</p> <p>Lee D. Hoffman, Esq. Pullman & Comley, LLC 90 State House Square Hartford, Connecticut 06103-3702 (860) 424-4315 (860) 424-4370 – fax lhoffman@pullcom.com (email only)</p>
Intervenor	NRG Middletown Power LLC	<p>Alfred E. Smith, Jr. Murtha Cullina LLP Two Whitney Avenue P.O. Box 704 New Haven, CT 06503 (203) 772-7722 (203) 772-7723 – fax asmith@murthalaw.com</p>
Intervenor	The Connecticut Light and Power Company	<p>Duncan R. Mackay, Esq. Vincent P. Pace, Esq. The Connecticut Light & Power Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-5000 (860) 665-5504 – fax mackadr@nu.com pacevp@nu.com</p> <p>John R. Morissette Manager-Transmission Siting and Permitting The Connecticut Light & Power Company P.O. Box 270 Hartford, CT 06141-0270 (860) 655-2036 (860) 665-2611 – fax morisjr@nu.com</p>

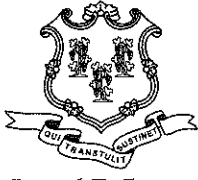
**LIST OF PARTIES AND INTERVENORS
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Status Granted	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Intervenor	The Connecticut Light and Power Company	Christopher R. Bernard Manager-Regulatory Policy (Transmission) The Connecticut Light & Power Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-5967 (860) 665-3314 – fax bernacr@nu.com
Intervenor	City of Middletown	Timothy P. Lynch Deputy City Attorney City Attorney's Office City of Middletown 245 deKoven, P.O. Box 1300 Middletown, CT 06457-1300 (860) 344-3422 (860) 344-3499 - fax Tim.lynch@cityofmiddletown.com
Intervenor	Earle Roberts	Earle Roberts 785 Bow Lane Middletown, CT 06457-4810 (860) 346-0068 (860) 344-9327 – fax eroberts4675@sbcglobal.net
Intervenor	Connecticut River Watershed Council, Inc.	Jacqueline Talbot Connecticut River Watershed Council, Inc. DeKoven House Community Center 27 Washington Street Middletown, CT 06457 (860) 704-0057 (860) 704-0057- fax jtalbot@ctriver.org

**LIST OF PARTIES AND INTERVENORS
SERVICE LIST**

Status Granted	Status Holder (name, address & phone number)	Representative (name, address & phone number)
<p style="text-align: center;">Party (granted on July 29, 2010)</p>	<p>Town of Portland</p>	<p>Jean M. D'Aquila D'Aquila Law Offices, LLC 100 Riverview Center, Suite 205 Middletown, CT 06457 (860) 704-0290 (860) 704-0545 jmd@daquilalaw.com</p> <p>Susan S. Bransfield, First Selectwoman Town of Portland 33 East Main Street P.O. Box 71 Portland, CT 06480 (860) 342-6715 (860) 342-6714 sbransfield@portlandct.org</p>
<p style="text-align: center;">Intervenor (granted on July 29, 2010)</p>	<p>The Honorable Eileen M. Daily State Senator - 33rd District 103 Cold Spring Drive Westbrook, CT 06498 (860) 240-0462 (860) 240-0036 fax daily@senatedems.ct.gov</p>	
<p style="text-align: center;">Intervenor (granted on July 29, 2010)</p>	<p>Representative Christie M. Carpino State Representative – 32nd District Legislative Office Building, Room 4200 Hartford, CT 06106-1591 (860) 635-2992 (860) 240-8585 (860) 240-0206 fax Reporourke@att.net</p>	

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February 17, 2011

Lee D. Hoffman, Esq.
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103-3702

RE: **DOCKET NO. 225D** - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes § 4-181a(b) limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations in the Executive Report issued by the Thomas Commission.

Dear Attorney Hoffman:

By its Decision and Order dated February 8, 2011, the Connecticut Siting Council (Council) approved modifications to the November 21, 2002 Decision and Order issued for Docket No. 225 to include the attachment of conditions to the Certificate consistent with the findings and recommendations contained in the Thomas Commission Executive Report.

Enclosed are the Council's Findings of Fact, Opinion, and Decision and Order.

Very truly yours,

Linda Roberts
Executive Director

LR/RDM/laf

Enclosures (4)

c: William C. Corvo, Kleen Energy Systems, Inc.

DOCKET NO. 225D - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes § 4-181a(b) limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations in the Executive Report issued by the Thomas Commission.

Connecticut

Siting

Council

February 8, 2011

Findings of Fact

Introduction

1. On November 21, 2002, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) to Kleen Energy Systems, LLC (Kleen) for the construction of a 620-megawatt natural-gas fired combined cycle electric generating facility off of River Road in Middletown. (Council Administrative Notice Item 49)
2. On February 7, 2010, during construction of the facility, there was an explosion caused by the release and combustion of natural gas that was being used to clean natural gas piping at the site, a procedure otherwise known as a “gas blow”. (Council Administrative Notice Item 49)
3. After the explosion, Governor M. Jodi Rell established a commission, the Kleen Energy Plant Investigation Review Panel (Nevas Commission) to identify the cause and origin of the explosion. (Council Administrative Notice Item 38)
4. The Nevas Commission issued a Final Report on June 3, 2010 that included findings and recommendations regarding pipe cleaning procedures used at the facility. In addition, the report included an analysis of existing regulations concerning such activities and recommended changes to regulatory criteria to prevent such an event in the future. (Council Administrative Notice Item 38)
5. The Council incorporated the findings of the Nevas Commission into Kleen’s Certificate on October 7, 2010. (Council Administrative Notice Item 49)
6. A second, separate commission established by Governor Rell, the Thomas Commission, reviewed the Nevas Commission findings to determine if specific legislative or regulatory changes were necessary to prevent such an event from occurring again. (Council Administrative Notice Item 40)
7. On September 21, 2010, the Thomas Commission issued an Executive Report that included recommendations for regulatory changes that could be accomplished by executive order, state legislation and/or the adoption of regulations. (Council Administrative Notice Item 40)
8. On September 22, 2010, Governor Rell issued Executive Order No. 45, banning the use of flammable gas for “gas blows” in Connecticut. (Council Administrative Notice Item 48)

9. On October 7, 2010, in response to the Thomas Commission Executive Report, the Council initiated its own motion to reopen Docket 225 based on changed conditions under C.G.S. §4-181a(b) and to hold a hearing specifically limited to Council consideration of changed conditions and of the attachment of conditions to Kleen's Certificate consistent with the findings and recommendations contained in the Thomas Commission Executive Report. (Council E/T meeting minutes, October 7, 2010).
10. Pursuant to General Statutes § 16-50m, the Council, after giving due notice thereof, held a public hearing on December 7, 2010, beginning at 10:15 a.m. at the Legislative Office Building, 300 Capitol Avenue, Hartford, Connecticut. (Council's Hearing Notice dated October 28, 2010; Transcript 1, 12/07/10, 10:10 a.m. [Tr. 1], p. 4)
11. Parties to the proceeding are Kleen and the Town of Portland. Intervenors to the proceeding are NRG Middletown Power LLC, The Connecticut Light and Power Company, the City of Middletown, the Connecticut River Watershed Council, State Senator Eileen Daily, State Representative James O'Rourke, and Earle Roberts. (Tr. 1, pp. 2-3)
12. Public notice of the hearing was published in the Middletown Press, Meriden-Record Journal and the New Britain Herald. (Council correspondence dated October 28, 2010)

Thomas Commission Findings

13. At the meeting of the Thomas Commission held on August 10, 2010, Kevin M. DelGobbo, Chairman of the Department of Public Utility Control (DPUC) stated that the Nevas Commission made the following three determinations:
 - a. "The February 7, 2010 explosion was the product of a process to clean a natural gas pipeline using large quantities of natural gas that came into contact with an ignition source known in the industry as a "gas blow";
 - b. "Although the Kleen Energy construction project was heavily regulated by a variety of agencies, no agency regulated the process used – or any process that might be used such as gas purging – to clean the natural gas pipeline that was the source of the explosion";
 - c. Recommendations to the Thomas Panel "that there are significant regulatory steps that should be taken to ensure that the events of February 7, 2010 are not repeated".(Council Administrative Notice Item 40)
14. At the meeting of the Thomas Commission held on August 24, 2010, Manuel R. Gomez, Director of Recommendations from the U.S. Chemical Safety Board, testified that there are no standards and limited guidance regarding safely cleaning fuel gas piping. (Council Administrative Notice Item 40)
15. At the meeting of the Thomas Commission held on September 14, 2010, Council Member James J. Murphy, testified that the Council has the authority, on its own motion, to modify the certificates of power plant facilities at any time on a finding of changed conditions pursuant to Connecticut General Statute §4-181a(b). Mr. Murphy also recommended statutory changes to include the Department of Emergency Management and Homeland Security (DEMHS), Department of Public Safety (DPS), Department of Labor (DOL), Department of Consumer Protection (DCP), and Department of Public Works (DPW) as additional agencies with which the Council must consult and solicit comments from when an application for an electric generating facility is received by the Council. (Council Administrative Notice Item 40)

16. Also at the Thomas Commission meeting of September 14, 2010, the DPS Division of Fire, Emergency and Building Services testified to specific recommendations for adoption of the 2010 Edition of the National Fire Protection Association (NFPA) 37, adoption of the 2009 Edition of NFPA 54 including Temporary Interim Amendment (TIA) 09-3, adoption of American Society of Mechanical Engineers (ASME) B31, including a requirement that the Connecticut Siting Council to require the owner to hire a special inspector for the inspection of piping installed in accordance with ASME B31, amendments to the Fire Prevention Code, C.G.S. §29-291a and adoption of the 2010 edition of NFPA 850. (Council Administrative Notice Item 40)

17. The Executive Report issued by the Thomas Commission contains the following Final Recommendations:
 - a. "The use of flammable gases to conduct "gas blows" should be banned in Connecticut; at least until such time as there are accepted national standards published and in place";
 - b. "Requirement of special inspectors, development of safety plans and payment of cost by power plant applicant";
 - c. Assembly of a "Coordinating Council" for future power plant applications;
 - d. Attachment of conditions to certificates issued by the Siting Council that include a ban on flammable gas blows and compliance with code recommendations;
 - e. Review of existing power plants by the Siting Council to modify final decisions of power plants within its jurisdiction to determine whether such plants warrant further attention;
 - f. Adoption of the following codes and regulations by the DPS:
 - i. Amend the Flammable & Combustible Liquids Code, C.G.S. §29-320 to adopt the 2010 Edition of NFPA 37, "Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines";
 - ii. Amend the Gas Equipment and Piping Code, C.G.S. §29-329 to adopt the 2009 Edition of NFPA 54, "National Fuel Gas Code" including Temporary Interim Amendment 09-3 (August 25, 2010) and, by Connecticut amendment, remove the exception regarding fuel gas piping at electric utility power plants; and adopt ASME Standard B31, "Code for Pressure Piping", including mandatory compliance with Appendices IV and V of ASME B31.1 for newly constructed electric utility power plants;
 - iii. Amend the Connecticut Fire Prevention Code adopted pursuant to C.G.S. §29-291a to add new sections in the Hazardous Materials Chapter regarding "Gas Piping Cleaning Operations";
 - iv. Amend the Fire Prevention Code adopted pursuant to C.G.S. §29-291a to delete and revise sections 29-291a-2(a) and (b) regarding "Relationship to State Fire Safety and Building Codes" and adopt the requirements of the 2010 Edition of NFPA 850 "Fire Protection for Electric Generating Plants and High Voltage Current Converter Stations"; and
 - g. Adopt legislation to provide for payment into a code training fund by any power plant applicant who is required to obtain Siting Council approval.
(Council Administrative Notice Item 40)

State Agency Comment

18. Pursuant to General Statutes § 16-50j(h), on October 28 and December 8, 2010, the following state agencies were solicited to submit written comments regarding potential modifications of the Certificate: DPUC, DEMHS, Department of Environmental Protection (DEP), Department of Public Health (DPH), Council on Environmental Quality (CEQ), Office of Policy and Management (OPM), Department of Economic and Community Development (DECD), Department of Agriculture (DOAg), and the Department of Transportation (DOT). (Council Correspondence of October 28 and December 8, 2010)

19. On November 17, 2010, the DPH provided written comment to the Council recommending that the Council consider the following recommendations for any current or future gas-fired power plant applications for both the initial construction phase and any future construction or maintenance activities; be attached to any extension of the Kleen Certificate for any future construction or maintenance activities;
 - a. Prohibit the use of flammable gas for the cleaning fuel gas piping and the identification of a safer alternative prior to the commencement of further pipe cleaning;
 - b. Prohibit the venting of flammable gas indoors or outdoors where it could pose a hazard;
 - c. Prohibit any work activity where the concentration of flammable gas would exceed 10% of the lower explosive limit for that gas with continuous monitoring to ensure compliance;
 - d. Require adherence to the code requirements of the Natural Fuel Gas Code (NFPA 54) even when gas is used at a pressure less than what the code specifies;
 - e. Require compliance with the Occupational Safety and Health Administration Standard 29 CFR § 1910.119;
 - f. Require an independent Site Safety Manager and support staff to be on-site during construction of the facility to coordinate and ensure site safety;
 - g. Require the inclusion of flammable gas safety procedures that involve contractors, workers, and their representatives in the project development and decision-making process; and
 - h. Prohibit or attach conditions to the Certificate that pertain to financial incentives for early completion construction contracts. One such condition could be any financial incentives received by the contractors be contingent on a “zero injury rate” achieved during construction.

(DPH comments received November 17, 2010)

20. No other state agencies submitted comment regarding the re-opened proceeding. (Record)

Municipal Comment

21. The City of Middletown did not participate in the Council’s hearing and did not submit comments prior to the hearing. (Record)

22. The Town of Portland, through First Selectwoman Susan Bransfield, submitted comment that endorses all of the recommendations made by the Thomas Commission. (Portland 1)

23. The Town of Portland requests a community notification procedure to serve local residents for facility operations that could cause public alarm as well as for facility emergencies. (Tr. 1, pp. 39-45, 160-161)

24. The Town of Portland utilizes the Connecticut Alert Emergency Notification System through the Middletown Dispatch Center. This system provides emergency notification through a database which access traditional home telephones. Residents who want notification on a different device could register those devices in the database. (Town of Portland late file of December 28, 2010)

Kleen's Response to Thomas Commission Recommendations

25. Kleen does not object to any of the applicable Thomas Commission recommendations except for the imposition of Temporary Interim Amendment 09-3 (August 25, 2010). A portion of this standard, Section 8.3.2.1(5) states that the piping shall be purged by the gas supplier in accordance with written procedures. Kleen believes this would be problematic because the gas supplier does not own the gas distribution system at the facility and the gas supplier may not want the responsibility or liability for a system they did not design or install. (Kleen 1, Q, 4; Tr. 1, pp. 122-126)
26. Kleen needs to clean debris from approximately 800 linear feet of gas fuel piping at the facility. (Kleen 5; Tr. 1, p. 23)
27. Kleen will use nitrogen to clean the affected portion of the fuel gas piping. Kleen submitted a Fuel Gas Pipe Cleaning document to the Council on December 1, 2010, as required by the Council's Docket 225 C Decision and Order issued on October 7, 2010. (Kleen 5; Tr. 1, p. 23)
28. Kleen investigated the possibility of replacing existing carbon steel piping with stainless steel to facilitate cleaning operations but ultimately determined that replacement would not be necessary. (Tr. 1, pp. 23-24)
29. The pipe cleaning operation will take two days. (Tr. 1, p. 24)
30. Nitrogen will be trucked to the site and injected into the pipeline at a pressure of 600 pounds per square inch. (Tr. 1, pp. 24-25)
31. The nitrogen will be vented to the atmosphere 85 feet above ground level. It will not present any hazard once vented to the atmosphere. (Tr. 1, pp. 24-25, 82-83)
32. As required by the Docket 225C Decision and Order, Kleen submitted copies of the Fuel Gas Pipe Cleaning document to the following state agencies: DEP, DPH, CEQ, DPUC, OPM, DOAg, DEMHS, DOT, DCP, DOL, DPS, DPW, and DECD. None of these agencies commented on the procedure. (Kleen 5; Tr. 1, pp. 28-29)
33. Copies of the cleaning procedure were also sent to the U.S. Chemical Safety and Hazard Board, Occupational Safety and Health Administration, the City of Middletown, and the South District Fire Department. (Kleen 5)
34. The South District Fire Department submitted comments regarding the procedure to Kleen on December 8, 2010. Based on these comments, on December 13, 2010, Kleen submitted an Addendum clarifying specific cleaning procedure items. (Kleen filing of December 13, 2010)
35. A representative from the South District Fire Department will be in attendance during the pipe cleaning event. (Tr. 1, pp. 28-29, 32)

36. In response to the explosion, Kleen implemented changes to their emergency response procedures including improved notification to local emergency responders, revised evacuation procedures that were tested during a mock drill with local emergency responders, and the installation of a warning siren at the site. (Tr. 1, pp. 39-40)
37. Kleen would examine the possibility of establishing a community notification system to notify residents in close proximity to the site of planned construction events that could cause alarm. (Tr. 1, pp. 39-44)

<p>DOCKET NO. 225D - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes § 4-181a(b) limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations in the Executive Report issued by the Thomas Commission.</p>	<p>} Connecticut } Siting } Council February 8, 2011</p>
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Opinion

On November 21, 2002, the Connecticut Siting Council (Council) granted a Certificate of Environmental Compatibility and Public Need (Certificate) to Kleen Energy Systems, LLC (Kleen) for the construction, maintenance and operation of a 620-megawatt natural-gas fired combined cycle electric generating facility off of River Road in Middletown. On February 7, 2010, during construction of the facility, there was an explosion caused by the release and combustion of natural gas being used to clean natural gas piping at the facility, a procedure otherwise known as a “gas blow”. The project was estimated at 97 percent complete at the time of the explosion.

As a result of the explosion, Governor M. Jodi Rell established a commission, the Kleen Energy Plan Investigation Review Panel, chaired by Judge Alan Nevas (the “Nevas Commission”), to identify the cause and origin of the explosion and to provide information necessary for a second Commission (Thomas Commission) to provide recommendations for any necessary legislative and regulatory changes that could prevent such an event from occurring in the future. On September 21, 2010, the Thomas Commission issued its Executive Report, which included recommendations for regulatory changes that could be accomplished by executive order, state legislation and/or the adoption of regulations.

On October 7, 2010, the Council, on its own motion, reopened the Docket 225 record for the limited purpose of consideration of changed conditions and of the attachment of conditions to the Certificate consistent with the recommendations of the Thomas Commission. The specific findings of the Thomas Commission are as follows:

- a. “The use of flammable gases to conduct ‘gas blows’ should be banned in Connecticut; at least until such time as there are accepted national standards published and in place”;
- b. “Requirement of special inspectors, development of safety plans and payment of cost by power plant applicant”;
- c. Assembly of a “Coordinating Council” for future power plant applications;
- d. Attachment of conditions to certificates issued by the Siting Council that include a ban on flammable gas blows and compliance with certain code recommendations;
- e. Review of existing power plants that received certificates from the Council to determine if such certificates warrant re-opening for consideration of the Nevas and Thomas Commission recommendations;
- f. Adoption of the following codes and regulations by the Department of Public Safety:
 - i. Amend the Flammable & Combustible Liquids Code, Connecticut General Statute §29-320 to adopt the 2010 Edition of National Fire Protection Association (NFPA 37), “Standard for the Installation and Use of Stationary Combustion Engines and Gas Turbines”;

- ii. Amend the Gas Equipment and Piping Code, C.G.S. §29-329 to adopt the 2009 Edition of NFPA 54, “National Fuel Gas Code” including Temporary Interim Amendment 09-3 (August 25, 2010) and by Connecticut amendment remove the exception regarding fuel gas piping at electric utility power plants and to adopt American Society of Mechanical Engineers (ASME) Standard B31, “Code for Pressure Piping” including mandatory compliance with Appendices IV and V of ASME B31.1 for newly constructed electric utility power plants;
 - iii. Amend the Connecticut Fire Prevention Code adopted pursuant to C.G.S. §29-291a to add new sections in the Hazardous Materials Chapter regarding “Gas Piping Cleaning Operations”;
 - iv. Amend the Fire Prevention Code adopted pursuant to C.G.S. §29-291a to delete and revise sections 29-291a-2(a) and (b) regarding “Relationship to State Fire Safety and Building Codes” and to adopt the requirements of the 2010 Edition of NFPA 850 “Fire Protection for Electric Generating Plants and High Voltage Current Converter Stations”; and
- g. Adoption of legislation to provide for payment into a code training fund by any power plant applicant who is required to obtain Siting Council approval.

In its review of the Thomas Commission findings and recommendations, the Council must first consider the limits of its jurisdiction. Jurisdiction over electric generating facilities is conferred upon the Council pursuant to the Public Utility Environmental Standards Act (PUESA). PUESA does not charge the Council with any authority to impose or enforce occupational safety and hazard standards and regulations. The Council recognizes that the tragic accident that occurred at the Kleen facility is an isolated incident with unique circumstances and that the Council’s decision in this reopened docket should not be considered precedent for any possible future Council actions regarding any gas-related incidents at other electric generating facilities under the Council’s jurisdiction. In the event of a future incident, the Council will consider the adoption of any specific findings and recommendations of any Commissions that may be appointed by the Governor in response to such an incident.

Notwithstanding its statutory jurisdictional limitations, the Council has considered changed conditions in this docket. Upon review of the Thomas Commission findings and recommendations for further examination of potential changes to the regulatory process concerning gas blows, the Council finds changed conditions in industry practices specifically pertaining to the gas pipe cleaning process used for the construction of the Kleen facility. The Thomas Commission urges the Council to attach conditions to Kleen’s Certificate consistent with the Commission’s findings and recommendations relative to gas blow procedures and compliance with code recommendations.

The Council is cognizant that these are only recommendations: they will require further action by other state agencies or by enabling legislation to become mandatory. Notwithstanding this issue, the Council has examined each of these recommendations based on the changed conditions concerning Kleen’s Certificate, hereby adopts the Thomas Commission recommendations, and will attach said recommendation to Kleen’s Certificate. The Council is aware that an item in the recommended code requirements includes the imposition of Temporary Interim Amendment 09-3 (August 25, 2010). A portion of this standard, Section 8.3.2.1(5) states that the piping shall be purged by the gas supplier in accordance with written procedures. Although the Council finds that this requirement could be problematic given that the gas supplier did not construct or does not own the gas distribution system at the facility, the Council also notes that the imposition of this item would have no effect on the Kleen facility because the gas lines have already been cleaned and the gas supply system is currently operational.

One area of concern to the Council not specifically addressed by the Thomas Commission is the apparent lack of a local notification system during facility emergencies or for routine facility construction and maintenance activities that could cause neighborhood alarm. The Council understands that such a system can be established using different forms of contact and that, given the options, no system can be 100 percent assured of reaching every intended recipient. Still, such a system is valuable to disseminate information and allay neighborhood concerns. The Council will require Kleen to create a local response system that will include notification to local emergency responders, City of Middletown and Town of Portland officials, representatives of the NRG facility on River Road, and local residents who wish to participate, specifically on Bow Lane (east of Cedar Lane) and River Road (east of Silvermine Road) in Middletown, and Wellwyn Drive, Lyman Road, and Payne Road in Portland.

In addition, to ensure adequate provisions are in place to respond to emergencies when the facility is operational, the Council will direct Kleen to incorporate an Emergency Response Plan (ERP) into the Operations Plan that is required by the Council's November 21, 2002 Decision and Order. The ERP shall be reviewed by all State agencies listed in General Statute § 16-50j(h), the Department of Emergency Management and Homeland Security, Department of Public Safety, Department of Labor, Department of Consumer Protection, Department of Public Works, City of Middletown, Town of Portland, district legislators and the South District Fire Department prior to facility operation. The Council shall consult with and solicit comment from these entities as part of the Council's ERP review and approval process.

DOCKET NO. 225D - Kleen Energy Systems, LLC Certificate of } Connecticut
 Environmental Compatibility and Public Need for the construction, }
 maintenance and operation of a Electric Generating Facility and } Siting
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 Council consideration of changed conditions and of the attachment of }
 conditions to the certificate consistent with the findings and } February 8, 2011
 recommendations in the Executive Report issued by the Thomas }
 Commission.

Decision and Order

In response to recommendations contained within the Thomas Commission Executive Report of September 21, 2010, the Connecticut Siting Council (Council) hereby modifies its Docket No. 225 Decision and Order of November 21, 2002, to include the following additional conditions:

11. Compliance with the following codes and standards, as adopted and amended by the Department of Public Safety and/or the Authority Having Jurisdiction, for any future fuel pipeline/system cleaning operations related to any future facility modification:
 - a. NFPA 37 (2010 edition);
 - b. NFPA 54 (2009 edition);
 - c. NFPA 54 Temporary Interim Amendment 09-3 (August 25, 2010);
 - d. NFPA 850 (2010 edition);
 - e. NFPA 850 Temporary Interim Amendment 10-2 (November 9, 2010);
 - f. ASME B31 (2007); and
 - g. ASME B31.1 Appendices IV and V (2007).

12. Establishment of an emergency responder/local community notification system within 30 days for on-site emergencies and planned construction-related activities that could cause community alarm. The system shall include notification to the following: local emergency responders, City of Middletown and Town of Portland officials, district legislators, representatives of the NRG facility on River Road, and local residents who wish to participate, specifically on Bow Lane (east of Cedar Lane) and River Road (east of Silvermine Road) in Middletown, and Wellwyn Drive, Lyman Road, and Payne Road in Portland.

13. Inclusion of a facility operation Emergency Response Plan (ERP) within the Operations Plan that is required by the Council’s Decision and Order dated November 21, 2002. Prior to commencing facility operations, the ERP shall be provided to the Council. The Council shall consult with and solicit comments from all State agencies listed in General Statute § 16-50j(h) and the Department of Emergency Management and Homeland Security, Department of Public Safety, Department of Labor, Department of Consumer Protection, Department of Public Works, City of Middletown, Town of Portland, district legislators and the South District Fire Department prior to approval of the ERP.

We hereby direct that a copy of the Findings of Fact, Opinion, and Decision and Order be served on each person listed below, and notice of issuance published in the Middletown Press.

By this Decision and Order, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.

The parties and intervenors to this proceeding are:

Applicant

Kleen Energy Systems, LLC

Its Representatives

Mr. William C. Corvo
President
Kleen Energy Systems, LLC
90 Industrial Park Road
Middletown, Connecticut 06457

Lee D. Hoffman, Esq.
Pullman & Comley, LLC
90 State House Square
Hartford, Connecticut 06103

Intervenor

NRG Middletown Power LLC

Its Representative

Alfred E. Smith, Jr.
Murtha Cullina LLP
Two Whitney Avenue
P.O. Box 704
New Haven, CT 06503

Intervenor

The Connecticut Light and Power Company

Its Representative

Duncan R. Mackay, Esq.
Vincent P. Pace, Esq.

Christopher R. Bernard
Manager-Regulatory Policy (Transmission)

John R. Morissette
Manager-Transmission Siting and Permitting

The Connecticut Light & Power Company
P.O. Box 270
Hartford, CT 06141-0270

Intervenor

City of Middletown

Its Representative

Timothy P. Lynch
Deputy City Attorney
City Attorney's Office
City of Middletown
245 deKoven, P.O. Box 1300
Middletown, CT 06457-1300

Intervenor

Connecticut River Watershed Council, Inc.

Its Representative

Jacqueline Talbot
Connecticut River Watershed Council, Inc.
DeKoven House Community Center
27 Washington Street
Middletown, CT 06457

Intervenor

Earle Roberts
785 Bow Lane
Middletown, CT 06457-4810

Party

Town of Portland

Its Representative

Jean M. D'Aquila
D'Aquila Law Offices, LLC
100 Riverview Center, Suite 205
Middletown, CT 06457

Intervenor

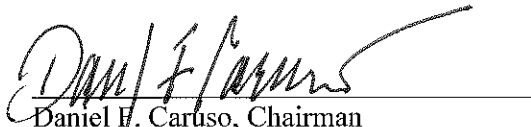

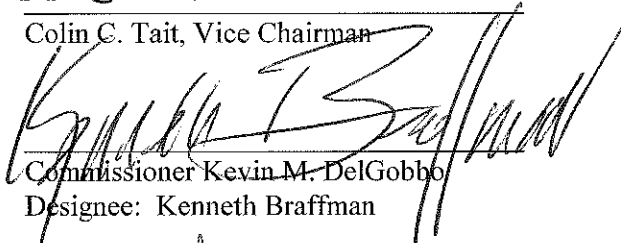
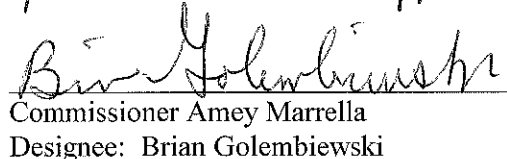
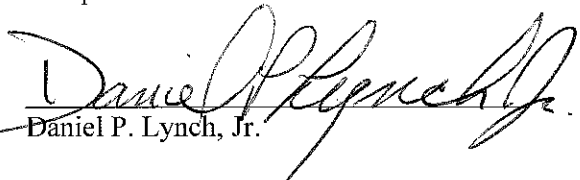
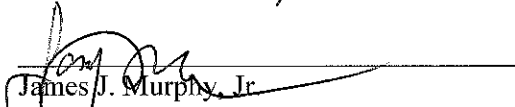
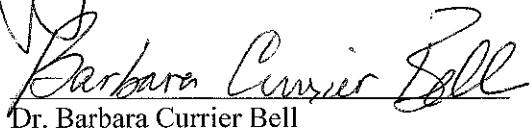
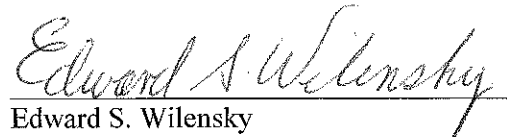
The Honorable Eileen M. Daily
State Senator - 33rd District
103 Cold Spring Drive
Westbrook, CT 06498

Intervenor

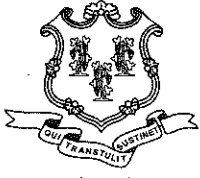
The Honorable Christie M. Carpino
State Representative – 32nd District
Legislative Office Building, Room 4108
Hartford, CT 06106-1591

CERTIFICATION

The undersigned members of the Connecticut Siting Council (Council) hereby certify that they have heard this case, or read the record thereof, in **DOCKET NO. 225D** - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes § 4-181a(b) limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations in the Executive Report issued by the Thomas Commission; and voted as follows to modify its Docket No. 225 Decision and Order of November 21, 2002, to include additional conditions in response to the Thomas Commission Recommendations:

<u>Council Members</u>	<u>Vote Cast</u>
 Daniel F. Caruso, Chairman	Yes
 Colin C. Tait, Vice Chairman	Yes
 Commissioner Kevin M. DelGobbo Designee: Kenneth Braffman	Abstain
 Commissioner Amey Marrella Designee: Brian Golembiewski	Yes
_____ Philip T. Ashton	Absent
 Daniel P. Lynch, Jr.	Yes
 James J. Murphy, Jr.	Yes
 Dr. Barbara Currier Bell	Yes
 Edward S. Wilensky	Yes

Dated at New Britain, Connecticut, February 8, 2011.



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

Internet: ct.gov/csc

February 17, 2011

TO: Classified/Legal Supervisor
225030128
Middletown Press
2 Main Street
Middletown, CT 06457

FROM: Lisa A. Fontaine, Fiscal Administrative Officer

RE: **DOCKET NO. 225D** - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of a Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes § 4-181a(b) limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations in the Executive Report issued by the Thomas Commission.

Please publish the attached notice as soon as possible, but not on Saturday, Sunday, or a holiday.

Please send an affidavit of publication and invoice to my attention.

Thank you.

LAF



Daniel F. Caruso
Chairman

STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

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NOTICE

Pursuant to General Statutes § 16-50p (e), the Connecticut Siting Council (Council) announces that, pursuant to Connecticut General Statutes § 4-181a(b), the Council issued Findings of Fact, Opinion, and a Decision and Order on February 8, 2011, modifying its November 21, 2002 Decision and Order in **DOCKET NO. 225** - Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of an Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut to include recommendations in the Executive Report issued by the Thomas Commission. The record in this matter, designated as Docket No. 225D, is available for public inspection in the Council's office, Ten Franklin Square, New Britain, Connecticut.