

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

www.ct.gov/csc

DATE: October 30, 2009

TO: Parties & Intervenors

FROM: S. Derek Phelps, Executive Director, Connecticut Siting Council

RE: **DOCKET 370** – Consolidated proceeding pursuant to the Connecticut Energy Advisory Board (CEAB) Request for Proposal (RFP) process under C.G.S. §16a-7c. **Original application:** The Connecticut Light & Power Company application for Certificates of Environmental Compatibility and Public Need for the Connecticut Valley Electric Transmission Reliability Projects which consist of (1) The Connecticut portion of the Greater Springfield Reliability Project that traverses the municipalities of Bloomfield, East Granby, and Suffield, or potentially including an alternate portion that traverses the municipalities of Suffield and Enfield, terminating at the North Bloomfield Substation; and (2) the Manchester Substation to Meekville Junction Circuit Separation Project in Manchester, Connecticut. **Competing application:** NRG Energy, Inc. application pursuant to C.G.S. §16-50/(a)(3) for consideration of a 530 MW combined cycle generating plant in Meriden, Connecticut.

During the evidentiary hearing for the above-referenced docket held on Thursday, October 22, 2009, the Connecticut Siting Council ("Council") granted NRG's Motion for Access to LEI Model Price Data ("protected materials") under a protective order based on the proprietary nature of the information requested. Attached please find the Protective Order signed by the Chairman with a Non-Disclosure Agreement attached.

The Council requests that the information requested be submitted by CL&P to the Council no later than November 13, 2009.

SDP/MB/laf

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DOCKET NO. 370 – Consolidated proceeding pursuant to the Connecticut Energy Advisory Board (CEAB) Request for Proposal (RFP) process under C.G.S. §16a-7c. **Original application:** The Connecticut Light & Power Company application for Certificates of Environmental Compatibility and Public Need for the Connecticut Valley Electric Transmission Reliability Projects which consist of (1) The Connecticut portion of the Greater Springfield Reliability Project that traverses the municipalities of Bloomfield, East Granby, and Suffield, or potentially including an alternate portion that traverses the municipalities of Suffield and Enfield, terminating at the North Bloomfield Substation; and (2) the Manchester Substation to Meekville Junction Circuit Separation Project in Manchester, Connecticut. **Competing application:** NRG Energy, Inc. application pursuant to C.G.S. §16-50/(a)(3) for consideration of a 530 MW combined cycle generating plant in Meriden, Connecticut.

October 26, 2009

PROTECTIVE ORDER

WHEREAS, the Connecticut Siting Council (“Council”) has opened Docket 370, a consolidated proceeding in response to the Connecticut Energy Advisory Board (“CEAB”) Request for Proposal (“RFP”) dated November 4, 2008 pursuant to the provisions of Connecticut General Statutes §16a-7c; and

WHEREAS, Connecticut Light & Power Company (“CL&P”) has filed with the Council an application for a Certificate of Environmental Compatibility and Public Need for the Connecticut portion of the Greater Springfield Reliability Project (“GSRP”) and the Manchester to Meekville Junction Circuit Separation Project (“MMP”) on October 20, 2008 in Docket 370A; and

WHEREAS, NRG Energy, Inc. (“NRG”) has filed with the Council a competing application pursuant to Connecticut General Statutes §16-50/(a)(3) for consideration of a 530 MW combined cycle generating plant in Meriden, Connecticut (“Generating Plant”) on March 19, 2009 in Docket 370B; and

WHEREAS, London Economics International, LLC (“LEI”), on behalf of CL&P, has analyzed the economic costs and benefits of the proposed CL&P GSRP and NRG’s proposed Generating Plant; and

WHEREAS, NRG filed a request for access to certain portions of the LEI analysis and worksheets (the “Protected Materials”); and

WHEREAS, the Council by unanimous vote on October 22, 2009, in the above-referenced docket has granted the request for access by NRG to the Protected Materials; and

WHEREAS, disclosure of the Protected Materials would result in the disclosure of, but not limited to, proprietary, trade secret information of LEI, CL&P and NRG, and thereby undermine the competitive positions of LEI, CL&P and NRG.

NOW, THEREFORE, IT IS HEREBY ORDERED by the Connecticut Siting Council that the following procedures are adopted for the protection of certain information provided by LEI to CL&P in connection with its compliance with the Council's October 22, 2009 ruling:

1. This Protective Order shall govern the Protected Materials provided by LEI.
2. All such Protected Materials made available pursuant to this Protective Order shall be used by any person receiving such information solely for the purposes of participating in this docket ("Consolidated Docket 370") in which the Council will review the competing applications of CL&P and NRG, and for no other purpose whatsoever.
3. The Protected Materials made available in Consolidated Docket 370 shall be given solely to the members and staff of the Council who are bound by the terms of this Protective Order; provided, however the Protected Materials may be made available to the parties and intervenors to Consolidated Docket 370, all of whom shall execute the attached Non-Disclosure Agreement and be bound by the terms of this Protective Order.
4. All persons granted access to the Protected Materials pursuant to Paragraph 3 shall take all reasonable precautions to keep this information secure in accordance with the purposes and intent of this Protective Order.
5. One copy of the Protected Materials shall be marked "CONFIDENTIAL – PROPRIETARY INFORMATION" on the top of each page by LEI and shall be delivered in a sealed envelope marked "CONFIDENTIAL – PROPRIETARY INFORMATION" with the following language:


"This envelope is not to be opened nor the contents to be displayed or revealed except pursuant to the pertinent Protective Order issued in Docket 370."

6. The Protected Materials shall be part of the record, subject to the conditions stated in Paragraphs 8 and 9.

7. Nothing herein shall be construed as a final determination that any of the Protected Materials will be admissible as substantive evidence in Docket 370A, Docket 370B or Consolidated Docket 370, any administrative appeal, or any future proceedings, or at any hearing or trial. Moreover, nothing herein shall be considered a waiver of any party or intervenor's right to assert at a later date that the material is or is not proprietary or privileged. A party or intervenor seeking to change the terms of the Protective Order shall by motion give every other party and intervenor ten business days prior written notice. No information covered by the Protective Order shall be made public until the Council rules on any such motion to change the terms of the Protective Order.
8. If the Protected Materials are used in any manner, in any letter, brief, petition, interrogatory or other written document, the confidentiality of the Protected Materials shall be preserved by either: (a) prominently labeling the document "CONFIDENTIAL – PROPRIETARY INFORMATION" and limiting the recipients of such document to members and staff of the Council, and any party or intervenor to Consolidated Docket 370 if the party or intervenor has executed a Non-Disclosure Agreement; or (b) referring to the Protected Materials in the document solely by title or exhibit reference in a manner reasonably calculated not to disclose the proprietary, trade secret information set forth in the Protected Materials.
9. If the Protected Materials are used in any manner in any proceeding or hearing before the Council, such proceeding or hearing shall not be held before, nor any record of it made available to any person or entity not affiliated with the Council. Provided each person has executed a Non-Disclosure Agreement, the reviewing representatives of any party or intervenor to Consolidated Docket 370 may also be present at, or receive a record of, any proceeding or hearing conducted with respect to the Protected Materials.
10. Access to the Protected Materials by any party or intervenor to Consolidated Docket 370 who has executed a Non-Disclosure Agreement shall be granted only at the Council office located at 10 Franklin Square, New Britain, Connecticut. No photocopying, no tape recording, no photographs, and no note-taking of any kind whatsoever of the protected materials will be permitted.
11. Any party or intervenor to Consolidated Docket 370 may discuss the Protected Materials with any other party or intervenor to Consolidated Docket 370 as long as each party or intervenor to the discussion has executed a Non-Disclosure Agreement. In the event that any party or intervenor to whom the Protected Materials are disclosed ceases to be engaged in Consolidated Docket 370, access to the Protected Materials by that person shall be terminated. Even if no longer engaged in Consolidated Docket 370, every party or intervenor who has executed a Non-Disclosure Agreement shall continue to be bound by the provisions of this Protective Order.

12. If the Protected Materials are disclosed to any person other than in the manner authorized by this Protective Order, the party or intervenor responsible for such disclosure shall immediately upon learning of such disclosure inform LEI, CL&P and NRG of all pertinent facts relating to such disclosure and shall make every effort to prevent disclosure by each unauthorized recipient of such information.
13. The Protected Materials are made a part of the record in this proceeding and shall remain in the possession of the Council.

CONNECTICUT SITING COUNCIL

By: 
Daniel F. Caruso
Chairman

Date: 10/27/09

NON-DISCLOSURE AGREEMENT AND AGREEMENT TO BE BOUND BY THE
TERMS OF THE PROTECTIVE ORDER

The undersigned hereby acknowledges that he or she has received and read a copy of the Protective Order granted by the Connecticut Siting Council in Consolidated Docket 370 on October 22, 2009 in connection with the Motion for Access filed by NRG Energy, Inc. on August 25, 2009, and hereby agrees to abide by the terms thereof in exchange for being given access to the proprietary, trade secret information from London Economics International LLC that is protected from disclosure under the terms of the Protective Order.

Name: _____

Title: _____

Representing: _____

Address: _____

Phone Number: _____

Signature: _____

Date: _____



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NOTICE OF SERVICE

I hereby affirm that a photocopy of this document was sent to each Party and Intervenor on the service list dated October 20, 2009 with method of service to each party and intervenor listed via either e-mail or hard-copy on October 30, 2009.

Dated: October 30, 2009

Lisa Fontaine
Custodian of Docket No. 370