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Anthony M. Fitzgerald

August 31, 2009

By Hand Delivery

S. Derek Phelps
Executive Director
State of Connecticut
Connecticut Siting Council
10 Franklin Square
New Britain CT 06051

Re: Docket No. 370B: NRG Energy, Inc. Application Pursuant to
C. G.S. § 16-50/(a)(3) for Consideration for a 530 MW Combined
Cycle Generation Plant in Meriden, CT.

Docket No. 370A: CL&P Application for the Greater Springfield
Reliability Project and the Manchester to Meekville Jct. Circuit
Separation Project

Dear Mr. Phelps,

This letter responds to the submission of NRG Energy, Inc. ("NRG") dated August 25, 2009 ("NRG LTR"), in support of its request that the Council order The Connecticut Light and Power Company ("CL&P") to produce certain detailed data embedded in the modeling performed by London Economics, Inc., to which CL&P Julia Frayer has testified.

Data Sought

NRG has identified the data it seeks as follows:

Prices in the Base Case Scenarios

- Average monthly energy prices for each year of the study period for each of the four Base Case scenarios, namely (1) normalized conditions, (2) high fuel prices, (3) nuclear outage, and (4) additional retirements with increased renewable imports.
- Annual FCM prices for each year of the study period reported by FCM zone for each of the four Base Case scenarios listed above.

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Prices in the Overlay Scenarios

- Average monthly energy prices for each year of the study period for each of the GSRP Overlay Scenarios measured against each of the four Base Case scenarios listed above.
- Average monthly energy prices for each year of the study period for the Meriden Plant Overlay Scenario measured against the normalized conditions Base Case scenario.
- Annual FCM prices for each year of the study period reported by FCM zone for each of the GSRP and Meriden Plant Overlay Scenarios measured against the normalized conditions Base Case scenario.

(NRG Ltr. at 2,3)

This is, by any measure, an overly broad, burdensome, and virtually punitive demand. It is also impossible to fulfill, since NRG mischaracterizes the scenarios that were examined. Putting that consideration aside, NRG seeks detail far beyond any reasonable measure. For instance, they want LEI to provide monthly prices by zone, etc., whereas LEI used forecast yearly average prices in its analysis.

In order to fully comply with NRG's request (putting aside the mischaracterization of the scenarios), a table of nearly 300,000 separate data points would be required. This would be, of course, in addition to the extensive supplemental information that CL&P has already provided in response to NRG's requests. (*See*, CL&P Ex. 29-36 *Id.*) filed August 27, 2009.

Applicable Law

"Pretrial discovery may be expressly authorized by statute, but, absent an express provision, the extent to which a party to an administrative proceeding is entitled to discovery is determined by the rules of the particular agency." *Pet v. Department of Health Services*, 207 Conn. 346, 357, 542 A.2d 672 (1988). The only relevant statute is Section 4-177c(a)(1) of the Administrative Procedure Act, which entitles each party and the agency to an opportunity "to inspect and copy relevant and material records, papers and documents not in the possession of the party or such agency..." There is no provision for interrogatories such as those propounded by NRG. Moreover, the Council's Rules of Practice are silent concerning discovery. Although an informal practice of

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exchanging and complying with information requests has evolved in Council proceedings, there is no absolute right to compliance with any interrogatory requests. The Council retains full discretion to allow such requests or not.

Data Provided By NRG in this Proceeding

Given NRG's extensive data requests at this stage of the proceeding, it is fair to consider what NRG has provided.

NRG Has Provided No Evidence That the Meriden Project Is a Reliability Substitute for GSRP and Has Declined to Provide the Data Underlying Its Reliability Analysis

In response to CL&P's response for its reliability analyses, NRG has advised that it has not analyzed whether its project would resolve any of the overloads or voltage violations that the GSRP is designed to address. *See*, NRG's Response, d. June 5, 2009 to Q-CL&P-006, 007. Moreover, NRG has advised that it conducted an "in-house evaluation of the impact of Connecticut generation on the need for the GSRP transmission upgrades in the Springfield area based on three dispatch scenarios," in which it "identified no appreciable criteria violations that would be eliminated through the introduction of Connecticut generation." However, NRG did not provide, as requested, the underlying data and documentation of the study. *See*, NRG Response d. June 5, 2009 to Q-CL&P-010.

NRG Has Provided Only Gross Estimates, With No Underlying Data, to Support Its Own Economic Claims

NRG has provided a gross estimate of a "representative" price per kilowatt-month for its project, net of estimated capacity and energy revenues over a 15 year term. In its Table of "Major Assumptions" it identifies these capacity revenues as "\$3.00 to \$7.00/kW-month" and the energy revenues as "\$5.00 to \$9.00/kw-month" (NRG Application, p. 22) No further detail is provided.

NRG apparently concluded that this gross level of disclosure was sufficient for the Council to evaluate its claims. To require CL&P to provide not just far more price data, but data that is proprietary, would be inequitable.

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Nature of the Data Sought

The Price Forecast Data is Proprietary to LEI

LEI is an economic consulting firm. As part of its advisory practice area and in support of the economic analysis it performs for clients, LEI prepares long term projections of power prices in deregulated markets in the US and abroad. These modeling exercises are intensive in terms of effort, use proprietary software, confidential inputs, and market outlooks and rely on the firm's overall suite of intellectual property. LEI would suffer substantial economic harm if its price forecasts were distributed on a complementary basis ("free of charge"), as that would negate its abilities to sell these price forecasts during the normal course of business.

The Price Forecast Data is Not Critical to Evaluating the Frayer Testimony

NRG does not necessarily need the price forecasts in order to pass judgment on the conclusions LEI has made. Unlike a power plant valuation or a contract valuation, which is directly based on expectations about future price levels, the analysis that LEI has performed is centered around differences in price levels. Indeed, the price levels will not add any additional information to the discussion about economic benefits that are documented in the testimony. A substantial amount of information about the price differences and the underlying market assumptions has already been provided to all parties in this case. For example, LEI has already provided the following data, which NRG or any other party can use to recreate the forecast of price levels and differences in prices, if they so wish:

1. Fuel prices
2. Demand assumptions
3. Supply/Generators
4. Forward Capacity Market assumptions
5. Renewable Portfolio Standard Assumptions
6. Emission costs
7. Demand Response assumptions
8. Plant operating parameters
9. Retirements

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10. Plant fuel mix in the system
11. Transfer interfaces
12. Transfer loss rates
13. Hydro plant assumptions
14. Explanation of the development of the demand-supply outlook

If NRG wants to add to the discussion or provide additional information then they should hire experts to create a similar study to LEI's. Then they can effectively compare and contrast if indeed any differences did occur.

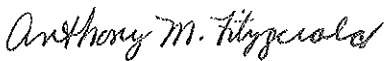
NRG's Offer of a Non-Disclosure Agreement

NRG has proposed that it and others in this proceeding receive the requested forecast price data pursuant to non-disclosure agreements (NDAs). Such agreements are required whenever proprietary data must be produced. For instance, in the DPUC Capacity Contract docket to which NRG refers in its submission, forecast prices were at the heart of the contract valuation issue before the Department, so the data was ordered produced and NDAs were ordered to protect it, insofar as possible. But that is not to say that proprietary data must be produced whenever an NDA is offered. The protection provided by such agreements is never complete or guaranteed, and the administrative burden that they impose on the agency and participants is substantial. Accordingly, the Council has generally been reluctant to use them. In this case, the data sought is not only proprietary, but burdensome to produce and of tangential relevance and importance.

Conclusion

CL&P and LEI request the Council not to require the production of LEIs proprietary forecast data in this proceeding.

Very truly yours,


Anthony M. Fitzgerald

AMF/kas

cc: CSC Service List dated August 17, 2009