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September 1, 2009

S. Derek Phelps
Executive Director
Connecticut Siting Council
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OCC Comments **On LEI Data Dispute**

Re: CL&P Application for the Greater Springfield Reliability Project and the Manchester to Meekville Junction Circuit Separation Project
Docket No. 370A (Consolidated Docket)
&
NRG Energy, Inc. Application Pursuant To CGS § 16-50/(a)(3) For Consideration Of A 530 MW Combined Cycle Generating Plant In Meriden, Connecticut
Docket No. 370B (Consolidated Docket)

Dear Mr. Phelps:

The Office of Consumer Counsel ("OCC") is a party to the above-captioned proceeding. OCC is in receipt of copies of two letters recently filed with the Connecticut Siting Council ("CSC"). On August 25, 2009, NRG Energy, Inc. ("NRG") asked CSC to require certain data associated with the expert testimony filed by London Economics International LLC ("LEI"), a company retained by The Connecticut Light and Power Company ("CL&P"), to be filed on the record in this docket. On August 31, 2009, CL&P asked CSC to deny this NRG request.

OCC urges the Siting Council to **grant NRG's 8/25/09 requests in full.**

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OCC views this data dispute from the perspective of our agency's statutory mission --- as the advocate for Connecticut utility ratepayers. As we have explained in prior letters filed in this docket¹, those ratepayers will bear the economic burden of whatever project (if any) is approved in this docket. This simple fact makes it vital that CSC here carry out a review and vetting process that is thorough and careful. Since the public interest is at stake, CSC must take great care to assure that any project it certifies will provide needed utility services at the lowest reasonable cost to consumers.

Further², the present CSC docket is the first one in which the long-term planning initiatives enacted in Public Act 03-140 have been fully brought to bear. The legislature tasked the Connecticut Energy Advisory Board to seek possible alternatives to CL&P's GSRP project, and it did so. NRG's Meriden generation project is now before the CSC on precisely that basis. And, now CSC is tasked to identify the overall best solution for Connecticut --- the project or combination of projects which most cost-effectively meet the public interest in all its dimensions.

Contrary to what CL&P says in its 8/31/09 letter, the data requests which NRG makes of LEI (the CL&P expert) are neither burdensome nor punitive. While these requested data represent many individual numbers, LEI ought to be able to readily transfer all items to one or more spreadsheets, and supply them for the docket record.

Also contrary to what CL&P says, the data requested are highly relevant to the question of understanding the LEI expert testimony in this docket. The data which NRG requests were crucial inputs/outputs in the LEI work, and that LEI testimony cannot be properly evaluated absent those data.

Finally, CL&P's claim that shielding these LEI data with a non-disclosure agreement ("NDA") would not sufficiently protect that company has no merit.³ When this issue first came up in the CSC hearing, counsel for CL&P made a casual slur upon the

¹ See, specifically, the OCC letters dated April 16, 2009 [Objection to CL&P Comments], April 30, 2009 [Response to Siting Council's Request for Comments], June 1, 2009 [Comment on CEAB Intervention] and July 7, 2009 [Limited Procedural Comments].

² Again, as OCC has stated previously in this docket. See our letter of April 30, 2009 [Response to Siting Council's Request for Comments].

³ In any case, CL&P's claim that the data NRG has requested have substantial independent economic value for LEI is dubious. These data, which support the specific analyses which LEI did for CL&P in this docket, are not likely to represent anything which LEI could sell to multiple clients.

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integrity of OCC's expert witness (Mr. Chernick), to which the undersigned promptly took strong exception. See Tr., 8/13/09, pp. 156-174. As the NRG letter shows, CSC's sister agency, the Department of Public Utility Control ("DPUC") regularly uses confidentiality procedures of this type. Those procedures have worked well in many DPUC proceedings, and are appropriate for CSC's use in the circumstances presented here.


For all the reasons stated, OCC urges the Siting Council to require CL&P (a) to file the LEI data which NRG requests in this docket, and (b) to make the LEI witnesses available for further cross-examination as appropriate.

In the alternative, the Council should consider requiring CL&P to withdraw the LEI testimony.

Very truly yours,

MARY J. HEALEY
CONSUMER COUNSEL

By


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cc: Service List