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January 28, 2010

S. Derek Phelps
Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Docket No. 370B: NRG Energy, Inc. application Pursuant to C.G.S. §15-50l(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

Request by Citizens Against Overhead Power Line Construction that the Connecticut Siting Council Reconsider its Ruling on Video Materials

Dear Mr. Phelps:

I am counsel for Citizens Against Overhead Power Line Construction (“CAOPLC”), a party in the referenced docket. On December 18, 2009 the Connecticut Siting Council (the “Council”) sustained the objection of CL&P to certain video materials that had been submitted by CAOPLC. We respectfully request that the CSC reconsider its decision regarding exclusion of the video materials.

CL&P asserted the following arguments in requesting that the CSC deny the admission of the video materials: (1) CSC had granted permission to file photographs, not videos, (2) the videos were submitted after the November 20, 2009 deadline, and (3) CAOPLC’s request for extension of time to file the videos was due to illness of counsel, which is not a sufficient reason. In addition, CL&P requested that if CSC permitted the introduction of videos, that it be permitted to cross-examine CAOPLC. CSC did not state any specific reason for its decision other than that it was sustaining CL&P’s objection. We will address each of these arguments.

1. **CSC permitted CAOPLC to submit photographs, not videos.** On November 5, 2009, CSC granted CAOPLC’s request to submit photographs of an existing power line in “leaf off” condition. In doing so, CSC acknowledged that actual images of the area would be useful and relevant evidence. CAOPLC asserts that the term “photograph” does not exclude “videos.”

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Alternatively, CAOPLC argues that whether the images were in the form of still photographs or video, they would be equally relevant and helpful to CSC. CAOPLC had not thought to specify “videos” because it did not expect to have access to an aircraft to permit such videos. While he was taking the photographs of Phelps Road, Mr. Legere met a pilot with access to an airplane who offered to take him aloft to shoot videos. If CAOPLC had considered it possible to obtain video evidence, it would have specified video in its request, and CSC would have granted such request. Regardless, it is a fact that the video materials submitted by CAOPLC contain relevant and useful information, and should be accepted into evidence. And as soon as he could, Mr. Legere did inform the CSC that CAOPLC did want to and intend to submit videos. We further note that CL&P was permitted to submit video evidence, some in the form of actual images of the area, and some in the form of a computer generated video identified as the “TrueScape” video. The video materials submitted by CAOPLC relate directly to the accuracy and usefulness of the video materials submitted by CL&P.

2. **The video materials were submitted after the November 20 deadline.** While this may be technically true, CAOPLC had valid reasons for submitting the video materials when it did. Creating and then copying of the video materials was expensive, very time consuming and difficult for CAOPLC to complete. As CSC is aware, CAOPLC is a group of homeowners. It has very limited resources. On November 20, 2009, Richard Legere, the Executive Director of CAOPLC spoke with Attorney Bachman and explained that CAOPLC was experiencing difficulty in making the necessary copies. He was advised to put that into writing, which he did. At that time, we knew that CL&P would object to the video materials, and CAOPLC was faced with the prospect of depleting its limited financial resources to copy and distribute videos, knowing that CL&P would object and CSC might sustain such objection. Mr. Legere had even inquired if the CSC would allow CAOPLC to upload the videos to YouTube or some other Internet service, which would allow all parties on the service list to view the materials. He never received an answer on that request from the CSC. The delay in providing the video materials did not prejudice any party and a copy of the video materials was sent to Attorney Fitzgerald at the time copies were delivered to the CSC. CAOPLC was and is willing to respond to any questions from the CSC, or any cross-examination that CL&P or any other party wishes to engage in.

3. **CAOPLC’s request for extension of time to file the videos was due to illness of counsel, which is not a sufficient reason.** This is simply untrue. CAOPLC clearly stated that it was having issues related to the illness of Mr. Legere. CAOPLC never asserted that its counsel was ill. This is clearly identified in the exhibits submitted by CL&P in its objection. If CL&P’s unexplainable error played a role in CSC’s decision, CSC should take this into consideration in deciding whether to now permit the introduction of the video materials.

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We are not aware of any specific rule or regulation affecting the CSC that specifies a deadline for service of materials on other parties. CAOPLC felt that it was prudent to wait until CL&P's objection was ruled on before he spent the time and money on sending out video materials that might potentially be thrown away. Given this unfortunate ambiguity, we ask the CSC also consider these facts in its review and reconsideration of the CAOPLC videos and not unduly prohibit CAOPLC from presenting its evidence.

One final point we wish to make is that the rules of evidence in CSC hearings are much more liberal than the rules applicable to court trials or other forums. CSC is comprised of experts who are not swayed by irrelevant evidence. The members of CSC are more than capable of determining the relevance of evidence such as the video materials. Furthermore, as stated above, CAOPLC is willing to answer any questions, or submit to cross examination by CSC, CL&P or any other party with regard to the video testimony.

Sincerely,

A handwritten signature in blue ink that reads "Matthew C. McGrath". The signature is written in a cursive style with a horizontal line extending from the end.

Matthew C. McGrath