

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: Eversource Energy Application for a : Docket # 461
Certificate of Environmental Compatibility and :
Public Need for the construction, maintenance, :
and operation of a 115-kilovolt (kV) bulk substation :
located at 290 Railroad Avenue, Greenwich, :
Connecticut, and two 115-kV underground transmission :
circuits extending approximately 2.3 miles between the :
proposed substation and the existing Cos Cob Substation, :
Greenwich, Connecticut, and related substation :
improvements. : December 21, 2015
Applicant

MEMORANDUM OF LAW

ISSUE: WHETHER THE CONNECTICUT SITING COUNCIL IS
MANDATORILY RESTRICTED FROM HEARING ANY TESTIMONY OR
PRESENTMENT OF ANY INFORMATION REGARDING WHETHER AN APPLICANT
HAS ACQUIRED AN INTEREST IN THE LAND THAT IS TO BE THE SUBJECT OF ITS
APPLICATION FOR THE PURPOSE OF CONSTRUCTION OF A ELECTRICAL
SUBSTATION?

LAW: Connecticut General Statutes Sec 16-50 p (g) states:

“(g) In deciding whether to issue a certificate, the council shall in no way be limited by the applicant already having acquired land or an interest therein for the purpose of constructing the facility that is the subject of its application.”

The case of Corcoran v. Connecticut Siting Council 50 Conn. Supp. 443 at 452 (2006) clearly clarifies the statute in interpretation of that particular paragraph by stating the following:

“The phrase “in no way be limited” contained in § 16–50p (g) implies that the legislature did not want the council to be bound by an applicant's alleged acquisition of an interest in land, but the council was not prohibited from considering such an interest in determining whether the certificate should be issued. The language of § 16–50p (g) is that of an enlargement of the council's discretion, not a limitation, permitting but not obligating the council to consider the likelihood of the applicant securing the proposed site.”

The Connecticut Supreme Court in affirming the decision of the Superior Court in of Corcoran v. Connecticut Siting Council 50 Conn. Supp. 443 (2006) stated

“On appeal, the plaintiffs claim, inter alia, that the trial court improperly concluded that: (1) § 16–50p (g) did not limit the council's discretion in cases wherein an applicant has already “acquired land or an interest therein for the purpose of constructing” a wireless telecommunications tower; (2) the council's decision was not arbitrary or capricious, despite the fact that the proposed tower impacts scenic vistas and its “fall zone” extends onto a state highway and neighboring properties; and (3) the council's failure to consider other “feasible and prudent alternatives to the application” was not arbitrary, capricious and an abuse of its discretion.

Our examination of the record on appeal and the briefs and arguments of the parties, persuades us that the judgment of the trial court should be affirmed. Because the trial court's memorandum of decision fully addresses the arguments raised in the present appeal, we adopt the trial court's concise and well reasoned decision as a statement of the facts and the applicable law on these issues. Corcoran v. Connecticut Siting Council, 50 Conn.Supp. 443, 934 A.2d 870, 2006 WL 5017191 (2006). It would serve no useful purpose for us to repeat the discussion therein contained. See, e.g., Lagassey v. State, 281 Conn. 1, 5, 914 A.2d 509 (2007); Cashman v.

Tolland, 276 Conn. 12, 16, 882 A.2d 1236 (2005).”Corcoran v. Connecticut Siting Council 284 Conn. 455 at 458-459 (2007)

ARGUMENT:

The Connecticut Siting Council is not restricted in hearing or receiving any information as to whether an applicant has or has not acquired an interest in the property that is to be the subject of construction of a electrical substation. The point is that it is in the discretion of the council and not a prohibition to consider the likelihood of securing the site. The statutory provision is an enlargement of the council’s powers and not a restriction.

CONCLUSION

The Siting Council is not restricted in any form to receiving or hearing information relevant to the applicant’s securing the proposed site for it uses. The Council may in such discretion give such weight to such information as it considers it is due but should, in no way, restrict the information from being presented to the Council in the application or hearings upon the application.

PET PANTRY SUPER DISCOUNT STORES LLC Intervenor

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Greenwich, Connecticut, and related substation :
improvements. : November 16, 2015

Applicant

CERTIFICATION

I hereby certify that on December 21, 2015, a copy of the foregoing Memorandum was filed by Pet Pantry Super Discount Stores LLC to Eversource Energy electronically and the original and 15 copies was served to all known parties, applicant and intervenors to: by U.S. Mail first class postage prepaid and by electronic mailing to:

The Connecticut Siting Council
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New Britain, CT 06051
Sitingcouncil@po.state.ct.us

See Attached Service List

Pet Pantry Super Discount Stores LLC Intervenor

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**LIST OF PARTIES AND INTERVENORS
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