



Connecticut Fund
for the Environment

Save the Sound®

January 31, 2018

Melanie Bachman, Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

RE: Docket No. 470- NTE Connecticut, LLC

**Position of Connecticut Fund for the Environment Concerning NTE Connecticut, LLC's
Motion to Reopen and Modify the Council's Decision in Docket No. 470**

Dear Ms. Bachman:

Based upon the following, it is the position of the Connecticut Fund for the Environment ("CFE") that NTE Connecticut, LLC has failed to present new information or facts, or the identification of any unknown or unforeseen events, or evidence not available at the time of the issuance of the Siting Council's Final Decision which meet the standard for changed conditions to justify the reopening of this administrative proceeding and the modification of the Siting Council's decision pursuant to Conn. Gen. Stat. § 4-181a(b).

As the Connecticut Siting Council ("Siting Council") no doubt recalls, in its Opinion of May 11, 2017, denying without prejudice NTE's application for a Certificate of Environmental Compatibility and Public Need, the Siting Council determined that the proposed Killingly facility was not needed for the reliability of the electric power supply for the state or the competitive market for electricity at this time (Opinion, p. 11, "Conclusion"). NTE devoted days of expert testimony on the issue of need, and experts retained by CFE, the Sierra Club, Not Another Power Plant and the Wyndham Land Trust, refuted that testimony. After considering the voluminous testimony, the Siting Council relied on its Biennial 2014/2015 Forecast of Connecticut Electric Loads and Resources Report dated December 10, 2015, which, using the most conservative prediction, found the electric generation supply during 2015-2024 for Connecticut will be adequate to meet demand (Opinion, p. 5, "Resource Adequacy Reports"); and, in terms of regional adequacy, and citing to the 2015 ISO-NE Regional System Plan, the Siting Council determined that the region would have sufficient resources through 2023 (Opinion, p. 6). Because of the evidence of no need for the NTE facility, the Conclusion was not based on potential environmental harm that will be caused by the NTE facility. NTE appealed the Opinion to the Superior Court and that appeal remains pending.

In support of its claim of changed conditions, NTE cites to the resolution of several cost and schedule uncertainties associated with the project since the issuance of the Siting Council's Opinion. These matters include the issuance of an air permit (which still required further modification) and the finalization of many substantive agreements concerning the supply of water and natural gas to the proposed facility and agreements associated with construction and engineering (NTE's Motion, pp.4-5). First, it is significant to note that these matters associated with the construction and operation of the proposed facility were deemed by the Siting Council to be unrelated to NTE's application for a Certificate of Environmental Compatibility and Need.¹ Thus, as previously determined by the Siting Council, the resolution of these matters has no impact on NTE's application and cannot be considered changed conditions. Second, as noted above, the Opinion is based on the absence of a need for the capacity and energy to be produced by NTE. The existence of air permits and agreements for the provision of water and natural gas have nothing to do with the issue of need and changes in the existence of such agreements does not create a changed circumstance relative to need.

NTE further claims as another changed condition that it has been pre-qualified by ISO-NE to participate in the FCA 12. During the administrative proceeding on NTE's application, it was pre-qualified by ISO-NE to participate in the FCA-11. Other than it being a new year and a new auction, being pre-qualified to participate in the ISO-NE auction is not a changed condition for NTE.

Surprisingly absent from NTE's motion is any evidence subsequent to the prior hearing on NTE's application of the retirement of any electric generating facilities or other alterations in the projected supply of electric generation in Connecticut or in the region that directly relate to need and which would justify a modification of the Council's findings. Simply stated, nothing in NTE's moving papers indicates a change in the conditions that would justify reopening this administrative proceeding and modify the Council's decision.

Finally, please note that the Wyndham Land Trust, Inc. concurs with CFE's position stated above and joins CFE in opposing NTE's motion to reopen and modify the Siting Council's opinion.

Respectfully submitted,



John M. Looney
Staff Attorney

¹ See, CFE's Motion to Dismiss and Memorandum in Support dated November 2, 2016, and the Council's denial of said motion.

**LIST OF PARTIES AND INTERVENORS
SERVICE LIST**

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