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March 3, 2008

Daniel F. Caruso, Chairman
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

RE: PETITION NO. 831 Waterbury Generation LLC Petition for a Declaratory Ruling
No Certificate of Environmental Compatibility and Public Need is Required for
the Construction of an Electric Generating Facility and Associated Transmission
Line Tap Located at 725 Bank Street, Waterbury, Connecticut

Dear Chairman Caruso:

Enclosed please find a brief filed on behalf of The Connecticut Light and Power
Company in the above-referenced Petition.

Very truly yours,



Robert S. Golden, Jr.

Copy to Service List

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

WATERBURY GENERATION LLC PETITION :
FOR A DECLARATORY RULING NO :
CERTIFICATE OF ENVIRONMENTAL : **PETITION NO. 831**
COMPATIBILITY AND PUBLIC NEED IS :
REQUIRED FOR THE CONSTRUCTION OF AN :
ELECTRIC GENERATING FACILITY AND :
ASSOCIATED TRANSMISSION LINE TAP : **MARCH 3, 2008**
LOCATED AT 725 BANK STREET,
WATERBURY, CONNECTICUT. **:**
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Brief Of The Connecticut Light and Power Company

I. Introduction

The Connecticut Light and Power Company (“CL&P”) intervened in this Petition before the Connecticut Siting Council (“Council”) because the plant proposed by the Petitioner, Waterbury Generation, LLC, (“Petitioner”) at 725 Bank Street, Waterbury, will require an approximately 1.8 mile transmission line interconnection (“line”) from the proposed plant site to CL&P’s Baldwin Street Substation. Because the line will traverse public streets, it will be owned by CL&P. The Petitioner will build the line and turn it over to CL&P, which will operate and maintain it. Given that Petitioner is building the line, CL&P would like to ensure that the line it eventually owns meets a variety of relevant standards for the safety and reliability as it will be integrated into CL&P’s transmission system. (Waterbury Generation, LLC, Petition p.6: CL&P’s Pre-filed Testimony Dorian Hill, p.1-6)

In addition, the line will also necessitate some modifications within the Baldwin Street Substation to complete the interconnection to the electrical grid. The modifications are relatively minor and will have little or no environmental impact, either during construction or during subsequent operation. (CL&P's Pre-filed Testimony Dorian Hill, p.2) The proposed Baldwin Street Substation modifications have been included in this instant Petition for approval as part of the project. CL&P supports the request that the Baldwin Street Substation modifications be approved in the Council's decision approving the Petition. (Waterbury Generation, LLC, Petition p.1)

II. The Council Should Include A Condition That The Petitioner Certify The Transmission Line Interconnection Is Satisfactory To CL&P

The approximately 1.8 mile line route under consideration would leave the proposed line to follow the Metro-North/Connecticut Department of Transportation (CDOT) railroad right of way ("ROW") and enter the Baldwin Street Substation from a ROW adjacent to an existing CL&P transmission ROW. The portion of the line that is within the railroad ROW is the part of the line that concerns CL&P the most. (Waterbury Generation, LLC, Petition, Exhibit 5) The record is replete with numerous potential problems that result from designing, constructing and operating a transmission line within an active railroad ROW. (CL&P's Pre-filed Testimony Dorian Hill, p.1-6) Amongst, but by no means all of, the issues associated with building transmission facilities along a railroad ROW are:

- Does the duration of the agreement and reasonable extension and termination provisions protect the long-term interests of CL&P?
- Liability for the costs of License fees, flagman protection and other services.

- Liability for transmission line repair and replacement costs or costs to modify railroad facilities because of the existence of the transmission facilities.
- Liability for transmission line relocation including land rights to provide for future change in railroad facility location, height or grade.
- Removal costs upon the end or early termination of the agreement.
- Transferability of the license or other agreement with the railroad to CL&P.
- Is there enough space to quickly and safely access, inspect, construct and maintain the transmission line, or will lateral access rights be required from other landowners?
- Is there enough clearance to vegetation growing or which may grow outside the railroad corridor, and will rights be obtained to trim such vegetation?
- Are there existing environmental issues?
- What rights does the Railroad retain for future expansion by the Railroad? Who is responsible to acquire additional transmission rights for displaced facilities resulting from future expansion by the Railroad?
- What rights has the Railroad granted to other parties which, if exercised, could force a relocation of the transmission line?
- Will the agreement be recorded, and will it transfer with the fee to subsequent purchasers or assigns?

(CL&P's Pre-filed Testimony Dorian Hill, p.4-5)

CL&P requests that the Council include a provision in its Decision and Order that protects CL&P and its ratepayers from a transmission ROW agreement that could jeopardize electric reliability, worker safety, and compliance with corporate environmental policies and could result in extraordinary operational costs. Though the Petitioner has expressed its willingness to work with CL&P to design a transmission interconnection to the Baldwin Street Substation that meets CL&P's relevant electrical regulatory requirements, engineering standards and corporate policies, there is still a large degree of uncertainty about the design and the ROW. (CL&P's Pre-filed Testimony Dorian Hill, P.1-6)

In its Petition, the Petitioner asserts that the line will be designed and constructed to conform to all of CL&P's engineering and easement standards (Waterbury Generation, LLC, Petition, p.2) Metro North/ CDOT, while apparently cooperative, has yet to agree

on what design or license terms it will accept. This uncertainty limits the Council's ability to assess the operational details necessary to ensure the operability of the line.

(Waterbury Generation, LLC, Petition P.1, 2, 6 and Exhibit 5)

Therefore, CL&P requests that the Council include a condition in its Decision and Order similar to the condition included in the Decision and Order in Petition 784, *Plainfield Renewable Energy, LLC's Petition For Declaratory Ruling*¹ where the Council conditioned its approval of the proposed project on achieving an agreement regarding the ROW and facility design meeting the expressed needs of CL&P. See Condition No. 7².

¹ PETITION NO. 784 – Plainfield Renewable Energy, LLC petition for a declaratory ruling no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance, and operation of a 37.5 MW Wood Biomass Generating Project, Plainfield, Connecticut. Approved 5/22/07.

² 7. If The Connecticut Light and Power Company (CL&P) is requested and accepts or is required to construct or is required to assume ownership or operation of any portion of the interconnection transmission line not located on CL&P property, the following conditions shall apply to any portion to be owned by CL&P:

- a. Petitioner shall provide the Council with a certification from CL&P to the effect that CL&P is satisfied (as determined by CL&P's in its sole discretion) as to the following conditions in subsections (i)-(iv) below:
 - i) That the transmission line design and studies of potential electric effects on railroad facilities to be done by the Petitioner's qualified consultant, by CL&P's consultant, or by CL&P employees, complies with applicable engineering, safety and other related laws, rules, regulations, standards and practices.
 - ii) The Petitioner has demonstrated to CL&P's satisfaction that the Petitioner has acquired all rights necessary to enable CL&P to access, construct, operate, repair, replace and maintain the transmission line. That further, there are no underlying encumbrances, environmental impairments or other obstacles to the construction and maintenance of the transmission line.
 - iii) All such necessary rights are assignable to CL&P;
 - iv) The Petitioner has undertaken, by agreement satisfactory to CL&P, to indemnify and protect CL&P against any expenses, resulting from the exercise by the property owner of any right to require relocation of the line.

The Council is urged to adopt the following language as a condition, if it approves this instant Petition:

The Petitioner should provide the Council with a certification from CL&P to the effect that CL&P is satisfied (as determined by CL&P's in its sole discretion) as to the following conditions in subsections (i)-(v) below:

- (i) That the transmission line design and studies of potential electric effects on railroad facilities to be completed by the Petitioner's qualified consultant, by CL&P's consultant, or by CL&P employees, comply with applicable engineering, safety and other related laws, rules, regulations, standards and practices.
- (ii) That the Petitioner has demonstrated to CL&P's satisfaction that the Petitioner has acquired all rights necessary to enable CL&P to access, construct, operate, repair, replace and maintain the transmission line.
- (iii) That there are no underlying encumbrances, environmental impairments or other obstacles to the construction and maintenance of the transmission line.
- (iv) That all such necessary rights are assignable to CL&P.
- (v) That the Petitioner has undertaken, by agreement satisfactory to CL&P, to indemnify and protect CL&P against any expenses resulting from the exercise by the property owner of any right to require relocation of the line. (CL&P 1, p. 5 - 6)

III. The Council Should Approve The Baldwin Street Substation Necessary Modifications

To complete the connection of any transmission interconnection to the planned facility it will be necessary to add equipment to the Baldwin Street Substation. The work within the Baldwin Street Substation will consist primarily of the installation of a new breaker, switch, buswork and associated equipment. As an integral step to connect the plant to the electrical grid, the work within the Baldwin Street Substation should be approved in the Council's decision. The Petitioner has included this work as part of its Petition and the proposed work will have little or no environmental impact. The work

The above conditions shall not apply if CL&P is not requested or required to construct and/or CL&P is not required to assume ownership or operation of any portion of the interconnection transmission line not located on its own property.

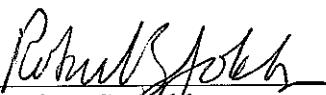
will be in a disturbed area of the Baldwin Street Substation. The proposed Substation modifications and operation will not contribute to noise or air emissions in this highly industrialized part of the City of Waterbury that borders Route 8. (Waterbury Generation, LLC, Petition p.1: CL&P's Pre-filed Testimony Dorian Hill, p.2)

Moreover, approving the Baldwin Street Substation modifications at this time will expedite the proposed plant in-service date by eliminating a separate proceeding to review those modifications and the delay such a proceeding might entail. The Council and the proceeding participants have all had an adequate opportunity to review the modifications and a chance to explore any concerns at the two public hearings.

IV. Conclusion

For the foregoing reasons, CL&P requests that the Council condition, as set forth above, any approval of this Petition to ensure safe and reliable interconnection and the Council approve the minor work within the Baldwin Street Substation in its decision.

Respectfully submitted,
Petitioner,
The Connecticut Light and Power Company,

By 
Robert S. Golden
Its Attorneys