

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

**PETITION 980 - BNE Energy, Inc. Petition for a
Declaratory Ruling That No Certificate of Environmental
Compatibility and Public Need is Required for the
Construction, Maintenance, and Operation of a 3.2
MW Wind Renewable Generating facility located at
78 New Haven Road, Prospect, Connecticut**

May 2, 2011

**BRIEF OF
THE CONNECTICUT LIGHT AND POWER COMPANY**

The Connecticut Light and Power Company (“CL&P” or the “Company”) hereby submits its brief to the Connecticut Siting Council (“Council”) in the above captioned proceeding. CL&P appreciates the opportunity to participate in this proceeding and to submit this brief for the Council’s consideration.

I. Background

CL&P is a specially chartered corporation and electric distribution company which operates and maintains electric distribution and transmission facilities throughout the State of Connecticut, providing distribution service to approximately 1.2 million customers. On January 10, 2011, CL&P initially intervened in this proceeding on the basis of the Petitioner’s proposal which specifically states that upon completion of the Project, the facility will be interconnected to CL&P’s distribution system in accordance with CL&P technical standards as well as the Connecticut Department of Public Utility Control (“DPUC”), ISO-NE and Federal Energy Regulatory Commission requirements.

Although two public service companies, CL&P and the Connecticut Water Company (“CWC”), own parcels that are adjacent to the proposed site, only CWC was

specifically mentioned within the body of the Petition. No reference to either CL&P or its telecommunications facilities was identified within the body of the Petition. CL&P was identified in Exhibit D of the Petition, among the list of abutting property owners to whom the Petitioner sent a certified notice of the filing of the petition. In the case of CL&P, the notice was apparently sent to CL&P's general post office box: P.O. Box 270, Hartford, CT 06141. On March 31, 2011, CL&P informed the Council that its telecommunications infrastructure sited on CL&P property at 18 Kluge Road in Prospect, CT is adjacent to the proposed project site. CL&P requested permission to supplement its position in the Petition.¹ The Council voted to allow CL&P to supplement the record regarding the impact of the proposed project on its communications, and CL&P filed its supplement on April 7, 2011. (TR. at 30-31). Neither the Petitioner, nor any other party objected to CL&P's supplement, and CL&P maintains that its supplement is part of the record in this proceeding.²

II. CL&P's Existing and Future Communications

CL&P met with representatives of the Petitioner on April 1, 2011 to review the coordinates and site plans in relation to CL&P's telecommunications infrastructure. Specifically, CL&P's telecommunications infrastructure, which supports CL&P's field operations and equipment operation and control, on the adjacent property consists of:

a. Existing Facilities:

Field Operation Communication Equipment:

¹ See Transcript from March 31, 2011 hearing, at page 29. Future references to the transcript from this hearing will be referred to as "TR. at ____."

² Pursuant to the CSC schedule in this proceeding the record closes as of today's date, May 2, 2011.

- Radio transceiver in the 37 megahertz (“MHz”) range for mobile communications and meter and service operations;
- Radio transceiver in the 48 MHz range for mobile communications and meter and service operations; and
- Radio transceiver in the 154 MHz range for internal paging of employees; Equipment Operation, Supervisor Control and Data Acquisition (SCADA);
- Radio transceiver in the 450 MHz range used for remote control of the electrical system;
- Radio transceiver in the 935 MHz range used for remote control of the electrical system;

Systems Operation Control:

- Two microwave paths in the upper 6 gigahertz (“GHz”) band (around 6.7 GHz) which carry administrative and electrical system operational information, as well as information provided to the Independent System Operator of New England (“ISO-NE”) for regional system operations.

Public Safety Equipment:

- Town of Prospect Fire Department radio equipment is also installed on its telecommunications infrastructure.

The antennas for all of these applications are mounted on CL&P’s 150 foot self-supporting tower on its property. Within the enclosed fence line, CL&P also has two equipment shelters to house the radios and associated equipment.

b. Planned Facilities:

CL&P is in the planning stages to install a 220 MHz transceiver used for remote controlled SCADA, which is scheduled to be in service by the end of 2011. (See, CL&P Letter dated 4/7/11) CL&P will, of course, seek approval from the CSC for this change, as required at the appropriate time.

Although the Petitioner’s proposal is not in the existing microwave paths of CL&P’s telecommunications facilities, CL&P continues to reserve the right to hold the Petitioner responsible for any repair, replacement or relocation of its microwave paths in the event the existing paths are subsequently impacted (e.g., by future installations on the property or modifications of equipment proposed under the Petition). (See, CL&P Letter

dated 4/7/11). The location and expected operation of the Northern Turbine, as identified in the revised plans CL&P reviewed with the Petitioner, is outside of the microwave path of CL&P's telecommunications facilities. The location and expected operation of the Southern Turbine as identified in the revised plans CL&P reviewed with the Petitioner, is well beyond the microwave path of CL&P's telecommunication facilities, and will therefore not impact CL&P's operations. (*See*, CL&P Letter dated 4/7/11)

Additionally, CL&P's telecommunications engineers' group have been unable to conclusively determine whether the project will present reflective/multipath interference problems for frequencies from 37 MHz through 935 MHz, and perhaps be degraded or unusable when the wind turbines are in operation. The Petitioner has not performed any analysis or cited to any studies that are conclusive that there will be no interference or impact on CL&P's communications. The Petitioner's claim of no interference is simply based a belief, and no empirical analysis or data. (TR. at 107). The reality is that the uncertainty of this factor cannot be conclusively ruled out until the project is constructed.

III. CL&P Customers Should Not Bear Any Cost Incurred As a Result of Petitioner's Proposed Project

Because of the nature of CL&P's public service obligations as regulated by the DPUC, CL&P must ensure that the Petitioner's project does not have any negative or degrading impact on CL&P's present communications, or diminish CL&P's ability for future modifications or expansion of its non-line-of-sight radio or microwave communications. CL&P could not determine from its own telecom review of the coordinates and site plan details whether the project would not have an impact on CL&P's communications. (*See* CL&P Letter of 4/7/11). As a result, CL&P retained an

independent consultant to perform an interference study on the proposed project and its impact on the Company's communications.

The actual and full impact of the proposed project, if approved by the CSC, will not be conclusively known until the project is actually constructed. If the Petitioner's project impacts CL&P's SCADA, microwave and/or mobile communications, which are essential communications for safe and reliable electric service, operations, restoration and field operation communications, the Petitioner should be held financially responsible for such impact. CL&P maintains that its customers should not bear any incremental or additional costs associated with any repair, replacement or relocation of its telecommunications facilities or degradation of existing communication services levels, or limitation on future expansion of existing facilities, caused by the Petitioner's project.

In 2005, as the CSC is well aware, CL&P submitted a petition for declaratory ruling³ that no certificate of environmental compatibility and public need was required for replacement of CL&P's existing telecommunications tower, pursuant to Conn. Gen. Stat. 16-50k. The CSC approved CL&P's petition, and found that the Company met the requirements of Conn. Gen. Stat. §16-50k, and the existing communications tower was erected to meet CL&P's communications needs. CL&P believes that if the proposed project is approved by the CSC, conditions should be imposed upon the Petitioner to absorb the cost, and be held financially responsible for any necessary relocation, replacement or removal of CL&P's communications facilities due to interference or degradation caused by the proposed project. The CSC should ensure that such costs are

³ See **Petition 745** – The Connecticut Light and Power Company Petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed replacement of an existing CL&P telecommunications tower in the Town of Prospect, Connecticut

not passed on to the Company's ratepayers, consistent with the CSC's statutory responsibility. Specifically, Conn. Gen. Stat. §16-50g outlines the CSC's responsibility to balance the need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state and to minimize damage to scenic, historic, and recreational values, among its other obligations.

In addition, the CSC, pursuant to Conn. Gen. Stat. §16-50p, has discretion to impose "...terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate." The CSC should exercise this broad grant authority⁴, in order to sustain the level of communications services utilized by CL&P. Otherwise, in the event of a degradation or interference with its communications, CL&P, under the worst case scenario would have to relocate its communications facilities, and the cost of such relocation which could involve identifying an alternate site, purchase of land or easement, and all the attendant siting and permitting requirements and costs, which can be excessive, and which would be borne by CL&P customers. Such cost should be borne by the Petitioner, and the CSC should exercise its authority and impose this condition upon the project's approval, if granted. The Petitioner should also be required to reimburse CL&P the costs associated with the interference study which CL&P commissioned⁵, and is underway. As CL&P has previously stated, it will provide the results of that study to the CSC upon completion.

⁴ See Town of Middlebury et al. v. Connecticut Siting Council, 2007 WL 4106365 ("as the council may deem appropriate" suggests the broadest possible delegation of power to the council to set conditions in the certificate without use of the amendment process").

⁵ The study is based on data which CL&P supplied to its contractor based on the evidence in the record, and its April 1, 2011 meeting with the Petitioner.

CONCLUSION

The Company appreciates the opportunity to participate in this proceeding and to brief the issues raised.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY

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CERTIFICATION

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