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LEED Green Associate

October 18, 2013

**VIA HAND DELIVERY  
AND ELECTRONIC MAIL**

Melanie A. Bachman, Esq.  
Acting Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051

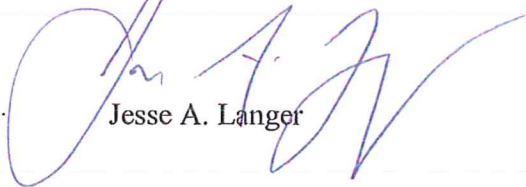
**RE: Petition of CTS Energy, LLC for A Declaratory Ruling that A  
Certificate of Environmental Compatibility and Public Need Is  
Not Required for A 4.98 MW Fuel Cell Facility**

Dear Attorney Bachman:

I have enclosed the original Petition, twenty copies, a CD and a check for the filing fee in the amount of \$625.00.

Please do not hesitate to contact me with any questions concerning the enclosures.

Very truly yours,



Jesse A. Langer

Enclosures



**CONNECTICUT  
STUDIOS**

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

**RE: PETITION OF CTS ENERGY, LLC  
FOR A DECLARATORY RULING  
THAT A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY  
AND PUBLIC NEED IS NOT REQUIRED  
FOR A 4.98 MW FUEL CELL FACILITY**

**PETITION FOR DECLARATORY RULING**

**OCTOBER 18, 2013**

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Figure 1 – DFC-3000 Fuel Cell

Figure 2 – Site Location

## **EXHIBITS**

Exhibit 1 – Environmental Assessment of the Fuel Cell Project

Exhibit 2 – Specifications for the DFC-3000

Exhibit 3 – Site Plan

Exhibit 4 – October, 2009 Report by Connecticut Economic Resource Center, Inc.

Exhibit 5 – State and Municipal Correspondence

Exhibit 6 – Service List of Abutters and Sample Letter to Abutters

Exhibit 7 – Service List of Municipal Officials and Government Agencies, and Sample Letter to those Officials and Agencies

Exhibit 8 – Fire Prevention & Emergency Plan

Exhibit 9 – Air Quality Report

Exhibit 10 – Sound Level Report

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

PETITION OF CTS ENERGY, LLC : OCTOBER 18, 2013  
FOR A DECLARATORY RULING :  
THAT A CERTIFICATE OF :  
ENVIRONMENTAL COMPATIBILITY :  
AND PUBLIC NEED IS NOT REQUIRED :  
FOR A 4.98 MW FUEL CELL FACILITY :

PETITION FOR DECLARATORY RULING

In accordance with General Statutes § 4-176 (a), § 16-50k (a) and Regs., Conn. State Agencies § 16-50j-38 *et seq.*, CTS Energy, LLC (“CTS”), respectfully seeks a declaratory ruling from the Connecticut Siting Council (“Council”) that a Certificate of Environmental Compatibility and Public Need is not required for the installation of a 4.98 megawatt (“MW”) fuel cell facility in South Windsor, Connecticut, including all associated equipment (“Fuel Cell Project”).

**I. AUTHORITY FOR REQUESTED RELIEF**

General Statutes § 4-176 (a) provides that “[a]ny person may petition an agency . . . for a declaratory ruling as to the validity of any regulation, or the applicability to specified circumstances of a provision of the general statutes, a regulation, or a final decision on a matter within the jurisdiction of the agency.”<sup>1</sup> This provision “confers broad rights on *any member of the public* to file a petition for a declaratory ruling without the need to establish any specific, personal and legal interest in the matter.” (Emphasis in the original.) *Bingham v. Dept. of Public Works*, 286 Conn. 698, 706, 945 A.2d 927 (2008).

General Statutes § 16-50k (a) provide in relevant part that:

the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling . . . the construction or location of any fuel cell, unless the council finds a substantial adverse environmental effect . . . .

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<sup>1</sup> General Statutes § 4-166 (9) defines “person” to mean “any individual, partnership, corporation, limited liability company, association, governmental subdivision, agency or public or private organization of any character, but does not include the agency conducting the proceeding.”

The installation and operation of the Fuel Cell Project satisfies the criteria set forth in § 16-50k (a) for a petition for declaratory ruling and, as discussed in more detail below, the installation and operation of the proposed project will not have a substantial adverse environmental effect.

Additionally, the Fuel Cell Project meets many of the stated goals of General Statutes § 16a-50k, which sets forth the State's energy policy. The Fuel Cell Project will "develop and utilize renewable energy resources" and will help "diversify the state's energy supply mix." § 16a-50k (3) and (4). Moreover, CTS will participate in Phase II of Department of Energy and Environmental Protection's ("DEEP") Microgrid Grant and Loan Pilot Program ("Microgrid Program") in accordance with Public Act 12-148, Section 7. If selected under the Microgrid Program, the Fuel Cell Project would provide Connecticut citizens with invaluable shelter during extreme weather events and, therefore, the project would also satisfy the State's goal to "maintain planning and preparedness capabilities necessary to deal effectively with future energy supply interruptions . . . ." § 16a-50k (8).

## **II. CONTACT INFORMATION**

CTS is a limited liability company organized under the laws of the State of Connecticut.

All correspondence or communications may be addressed to CTS's counsel as follows:

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### **III. THE PROPOSED PROJECT**

#### **A. The Studios Project**

CTS is a wholly owned subsidiary of Connecticut Studios, LLC (“CT Studios”). CT Studios intends to build and operate a state of the art motion picture studio including soundstages, production offices and mill space in the Town of South Windsor (“Studios Project”). The Studios Project will also include a substantial equipment rental business. The location of the Studios Project sits within the I-291 Corridor Development Zone of the Town of South Windsor (“Town”). The Studios Project consists of four separate and abutting parcels of land identified by the Town’s Assessor’s Office as Map 13, Lots 1, 26, and 27 and Map 22, Lot 22. Map 13, Lot 1, commonly known as 245 Chapel Road, is the proposed location of the Fuel Cell Project (“Subject Parcel”). See page 2 of the Environmental Assessment of the Fuel Cell Project, which is attached hereto as Exhibit 1.

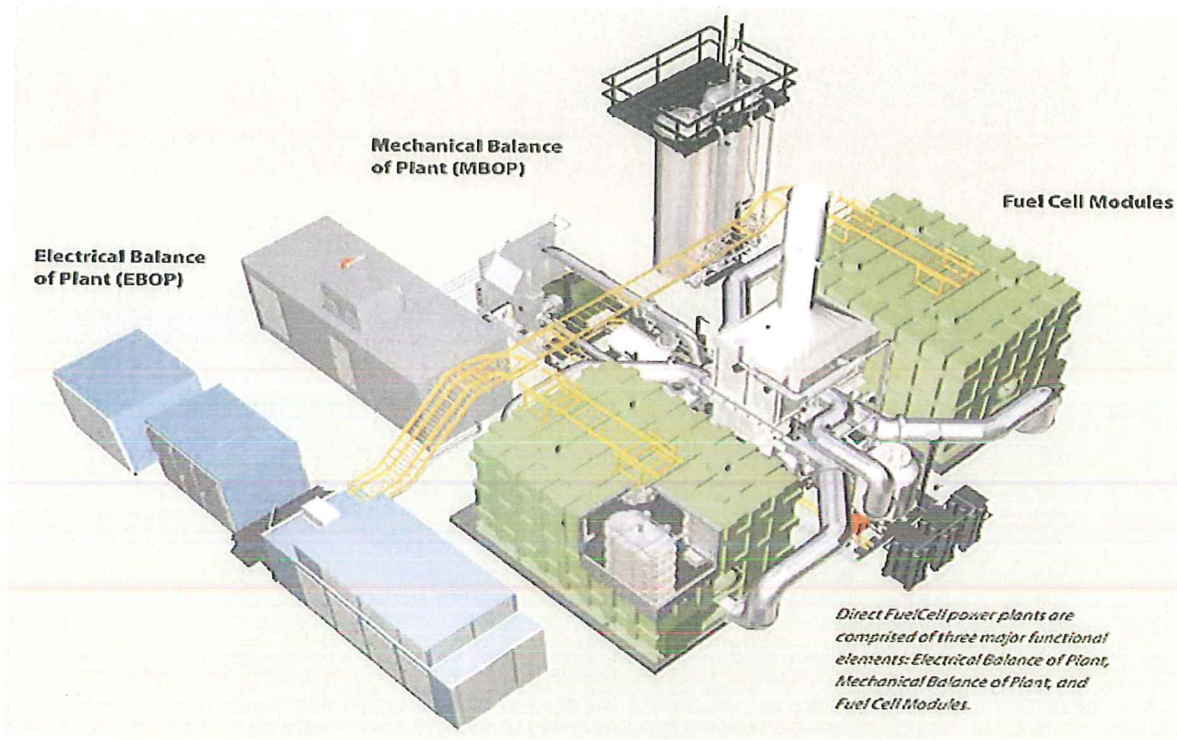
The area making up the Studios Project has been the subject of long term planning and investment by the Town, State and Federal governments. The Town has moved forward with the process to finance, construct and lease-back the public infrastructure in support of the Studios Project. The value of the public infrastructure will approach \$14 million. CT Studios has already obtained all of the major permits necessary to commence construction of the Studios Project and, in fact, has started construction of a portion of the Studios Project, unrelated to the Fuel Cell Project.

#### **B. The Fuel Cell Project**

The Fuel Cell Project is an important component of the overall Studios Project as it serves as an economic driver and it will provide a clean and efficient source of power. The Fuel Cell Project will utilize two custom designed systems, at 2.49 MW each, by Fuel Cell Energy,

Inc. of Danbury, Connecticut (“FCE”). These systems will be based on FCE’s DFC-3000 system, which has a standard 2.8 MW output. The specifications for the DFC-3000 are attached hereto as Exhibit 2. FCE shall design the systems after approval by the Public Utilities Regulatory Authority (“PURA”) of the proposed Power Purchase Agreement (“PPA”) between CTS and The Connecticut Light and Power Company (“CL&P”) and the execution of a supply contract with Yankee Gas.<sup>2</sup>

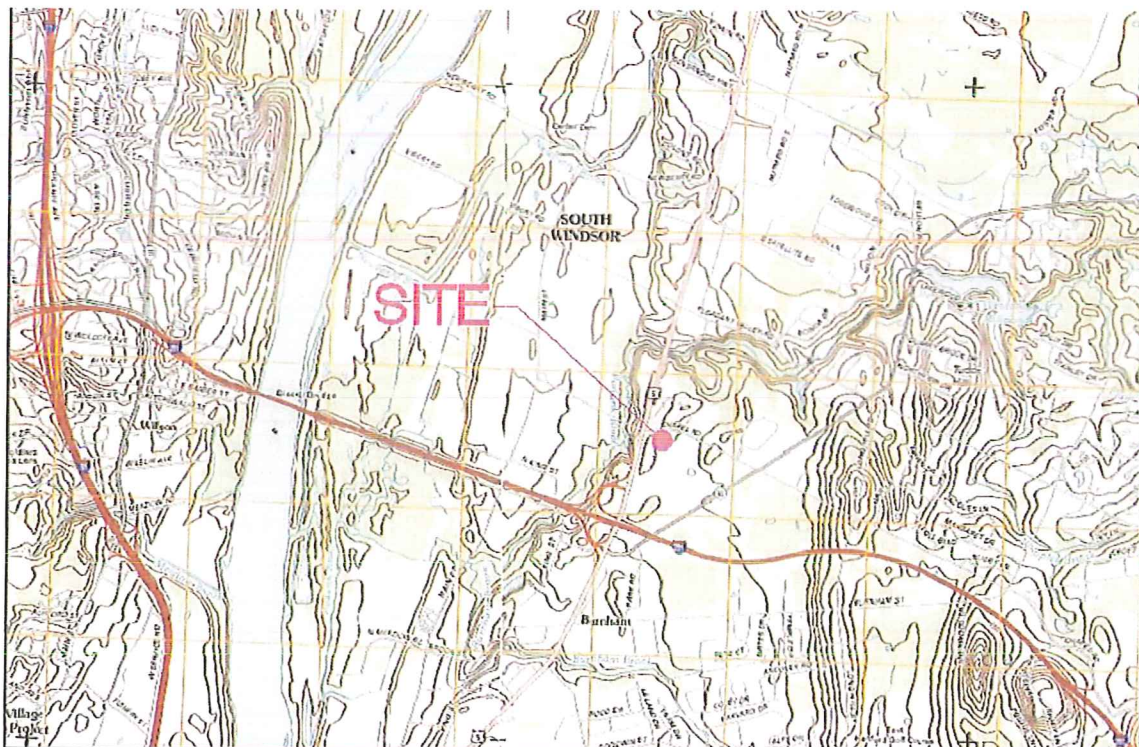
**Figure 1. DFC-3000 Fuel Cell**



<sup>2</sup> CTS and CL&P submitted a Joint Application to PURA on June 28, 2013 under General Statutes § 16-244v (a), which is pending as Docket 13-06-27. The Joint Application included an executed PPA. The new systems will have a nameplate capacity of 2.49MW to comply with the requirement in § 16-244v (a) that the generating facility be more than 1 MW, but not more than 5 MWs. On October 3, 2013, PURA issued a draft decision approving the PPA. PURA will consider a final decision on the PPA during a meeting scheduled on October 16, 2013.

The Subject Parcel is an approximate 17.6 acre parcel. The site of the Fuel Cell Project is located in the northwest corner of the Subject Parcel near the intersection of John Fitch Boulevard (Route 5) and Chapel Road (“Site”). The Site is currently vacant land occupied by a gravel parking area off of Chapel Road, scrub vegetation and the remnants of an access road associated with a former drive-in theater. Deteriorated theater infrastructure, including the steel skeleton of the screen, is located in southeastern portions of the Subject Parcel. The Subject Parcel is bordered by commercial developments along Chapel Road to the north, Ellington Road to the east, and Route 5 to the west. The remainder of the parcels that will make up the Studios Project, abutting the Subject Parcel to the east and south, is primarily undeveloped. An overhead electrical transmission corridor extends through the Studios Project in an east to west direction, south of the Subject Parcel. See Exhibit 1, pp. 1-2.

**Figure 2. Site Location**



The Fuel Cell Project will consist of an approximate 15,400 square foot gated and gravel compound, which will contain two skid-mounted fuel cell generators and associated support infrastructure enclosed within an eight-foot tall, chain link fence. The fuel cell systems will be located within the fenced compound, each on an approximately 4,200 square foot concrete pad. Each identical fuel cell generation system will include two fuel cell modules, main process components, electric balancing system, and a water treatment unit. The fuel cell systems will share a desulphurization system, which will be located within the fenced compound, and system switch gear, which will be located in a separate fenced area just to the southeast of the fenced compound. The separate fenced area will be accessible by a gate. A Site Plan is attached hereto as Exhibit 3.

The Fuel Cell Project will interconnect with CL&P's distribution system at Chapel Road in accordance with the applicable state, ISO-NE and federal requirements. The interconnection will adhere to the technical requirements established by CL&P and The United Illuminating Company. CL&P completed its application review and has asked for an impact study.

CTS will also participate in Phase II of the Microgrid Program. If selected, CTS will locate a 250 kilowatt diesel standby generator and an electric load control center just southeast of the fenced compound area. The components related to the Microgrid Program would be included with the system switch gear in the separate fenced area to just to the southeast of the fenced compound. The standby generator will be used to start up the fuel cell facility in the absence of utility power during a "blackstart" condition.

#### **IV. PROJECT BENEFITS**

In a proceeding concerning a Certificate of Environmental Compatibility and Public Need ("Certificate"), the Council will approve a Certificate if the Council determines that: (1)

there is a “public need” for the proposed facility and (2) the adverse effects of any probable environmental impact are “not sufficient reason to deny the application”. General Statutes § 16-50p (a) (2). General Statutes § 16-50p (h) provides that “a public need exists for an energy facility if such facility is necessary for the reliability of the electric power supply of the state.”

Although this is not a Certificate proceeding, there is a “public need” for the Fuel Cell Project. The Fuel Cell Project would generate 100 percent renewable energy as fuel cells are classified as a Class I renewable energy source under General Statutes § 16-1 (26). Over the life of the Fuel Cell Project, the fuel cell systems should contribute to a fifty-five ton reduction in NOx emissions and a greater than twenty ton reduction in SOx emissions as compared to combustion-based generation. See Exhibits 1, 2 and Part VI.C, *infra*. The Fuel Cell Project would also help the State move closer to meeting its renewable portfolio standards. Meeting the renewable portfolio standards is a fundamental purpose of the PPA and its submission to PURA under § 16-244v. The Fuel Cell Project would also serve as a reliable source of energy that diversifies the State’s energy supply mix in accordance with the State’s articulated energy policy under § 16a-35k.

The benefits of the Fuel Cell Project are stated clearly in the 2013 Comprehensive Energy Strategy for Connecticut (“Strategy”).<sup>3</sup> The Strategy “recommends special consideration be given to expanded fuel cell applications insofar as they provide a potential triple benefit: offering clean energy (including heat) for customers, promoting reliability as they can operate in island mode during power outages, and enhancing the State’s capacity for economic growth to the extent that in-state fuel cell manufacturers compete successfully for new projects.” Strategy, p. 62. Moreover, the Strategy explains that “[f]uel cells, which are defined as Class I renewable

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<sup>3</sup> The Strategy is available on the DEEP’s website: [http://www.ct.gov/deep/lib/deep/energy/cep/2013\\_ces\\_final.pdf](http://www.ct.gov/deep/lib/deep/energy/cep/2013_ces_final.pdf).

resources in Connecticut, are another important element of the renewable resources strategy. Fuel cells can help the state meet its RPS goals as well as provide a highly reliable source of distributed generation that can be the power source for local microgrids. Better integration and support of fuel cell usage into the state's homes, industrial facilities, and cars would provide a clean source of reliable power and Connecticut jobs." *Id.*, p. 97.

As mentioned in Part III.B, *supra*, CTS intends to participate in Phase II of DEEP's Microgrid Program. If selected, the Fuel Cell Project would serve yet another important public service in providing Connecticut's citizens with essential services and shelter during extreme weather events. This public service would further another aspect of Connecticut's energy policy, which is to "maintain planning and preparedness capabilities necessary to deal effectively with future energy supply interruptions . . ." § 16a-35k (8). This issue has ascended in importance in light of the storms of 2011 and 2012, which resulted in extensive power outages and precipitated the enactment of Public Act 12-148.

Furthermore, as discussed in Part III, *supra*, the Fuel Cell Project is an economic driver for the entire Studios Project. The Studios Project, as a whole, will generate short-term and long-term economic development benefits including: (a) the estimated creation of 1,500 jobs during the construction of the Studios Project and the generation of \$276 million in economic output; (2) the estimated creation of 4,600 jobs and the generation of \$786 million in annual economic output during the operation of the Studios Project, at full build-out; and (3) increased State and local tax revenues. A copy of the October, 2009 report by Connecticut Economic Resource Center, Inc. is attached hereto as Exhibit 4. In light of the important benefits of the Studios Project, the State and the Town wholeheartedly support both the Studios Project and the Fuel Cell Project. See Part V, *infra*.

## **V. COMMUNITY OUTREACH**

### **A. Collaboration with State and Local Officials**

Representatives of Connecticut Studios, LLC and CTS have had extensive interaction with the State and the Town since the inception of the Studios Project in 2008. They have met with, and received support from, a variety of groups, including the Town, State and regional entities, such as the Regional Project Priority Metro Hartford Alliance Comprehensive Economic Development Strategy, the Greater Hartford New Britain Building & Construction Trade Council, the Connecticut Teamsters, Connecticut AFL-CIO, South Windsor Chamber of Commerce Studio Support Committee and the Greater Hartford Convention and Visitors Bureau and the Greater Hartford Regional Planning Agency. They have received approvals for the Studios Project from the Town's Planning and Zoning commission, the Town's Inland Wetlands Commission, the Town's Water Pollution Control Authority and received approval for a loan from the State's Department of Economic Community & Development Agency.

Additionally, the Town and members of the State Legislature have memorialized their support for the Fuel Cell Project. Their letters referenced the importance of the Fuel Cell Project in the success of the overall Studios Project and note the positive impact the Fuel Cell Project will have on the State. The State Legislature and Town letters are attached hereto as Exhibit 5.

### **B. Notice to Abutters, Local and State Officials**

In accordance with § 16-50j-40 of the Regulations of Connecticut State Agencies, on October 15, 2013, CTS sent a notice of its intent to file this Petition, via certified mail, return receipt requested and regular mail, to each person appearing as a record owner of the properties which abut the proposed Site, each person appearing as the record owner of the properties on which the overall Studios Project will be located and the appropriate municipal officials and

government agencies. A service list of abutters and a sample letter to the abutters are attached hereto as Exhibit 6. The service list of municipal officials and government agencies, as well as a sample letter to those officials and agencies, are attached hereto as Exhibit 7.

## **VI. NO SUBSTANTIAL ADVERSE ENVIRONMENTAL EFFECT**

The Fuel Cell Project will not have a substantial adverse environmental effect and will meet the air and water quality standards of DEEP.

### **A. Public Health and Safety**

The Fuel Cell Project will meet all applicable safety requirements for construction, interconnection and operation. The fuel cell systems will not consume any raw materials and will not produce any by-products. See Exhibits 1 and 2. CTS will install an eight-foot tall chain link fence to secure the fuel cell systems and will post signage alerting the general public of the dangers associated with high voltage. See Exhibits 1 and 3.

CTS will implement a "Fire Prevention & Emergency Plan" in accordance with the Council's Final Decision and Order in Docket NT-2010 and the National Fire Protection Association ("NFPA") Standard 853 (2010), which applies to the design, construction and installation of stationary fuel cell power systems ("Plan"). See NFPA 853 § 1.1. The Plan provides (1) specific information about the fuel cell systems, (2) a plan to respond to fire or other emergency conditions, (3) information about fire prevention and (4) contacts in the case of a fire or emergency. A copy of the Plan is attached hereto as Exhibit 8.

As discussed in the Plan, the custom designed fuel cell systems will include the various safety features associated with the DFC-3000, including but not limited to: (1) software incorporating safety measures, such as warning alarms, heat-up/cool down ramp holds and partial and total load shed; (2) pressure safety devices to prevent system overpressure; (3) flame

and smoke detectors; (4) combustible gas detectors for leak safety; (5) process instrumentation and protective logic to ensure safe operation; and (6) emergency shutdown buttons to initiate immediate safe shutdown, if necessary. The fuel cell systems will operate unmanned and will only require periodic routine inspections, general cleaning and preventive maintenance.

**B. Site Justification**

The Site is located within the I-291 Corridor Development zone, which is well-suited for the installation of the Fuel Cell Facility. *See* Part VI.E, *supra*. None of the abutting properties are residential and there are no residences within 900 feet of the Site. There is easy access to the Site. Additionally, the roadways serving this area are sufficient to support the installation of the fuel cell systems and will amply serve those technicians who will perform the periodic inspections and preventive maintenance.

**C. Air Quality**

The fuel cell systems will operate in an extremely efficient manner, which substantially limits air emissions, particularly when compared to conventional combustion power generation. As discussed in Part III.B, *supra*, the Fuel Cell Project will consist of two custom systems based upon FCE's DFC-3000. The DFC-3000 emits virtually no harmful emissions. The expected emissions profile per megawatt-hour ("MWh") is as follows:

	lb/MWh
NOx	<0.01
SOx	<0.0001
PM	<0.005
CO	<0.1
VOC	<0.02

As discussed on page 3 of the Air Quality Report, which is attached hereto as Exhibit 9, the comparative emissions of a fuel cell, on the one hand, and small gas turbines, micro turbines or plants that use fossil fuels, on the other hand, demonstrate that the emissions from the fuel cells proposed in this Petition are negligible, particularly when compared to conventional combustion power generation. Additionally, the Fuel Cell Project will not be classified as a “major stationary source” and, accordingly, the project will not be subject to Non-Attainment New Source Review requirements. The Fuel Cell Project will not trigger the various other regulatory reviews and permits governed by DEEP, including DEEP’s permit to Construct and Operate Stationary Sources, because the potential emissions from the Fuel Cell Project will be less than fifteen tons per year.<sup>4</sup> See Exhibit 9.

#### **D. Water Quality**

The fuel cell systems will require a reliable and stable water supply for operation. The fuel cell systems will connect to the sewer system that extends beneath Chapel Road immediately north of the Site and is controlled by the Metropolitan Water District Commission. The fuel cell systems will also back flush to recharge the systems’ water treatment components. These backwash discharges will be discharged directly into the sanitary sewer system.

The Fuel Cell Project will result in less impervious surface. Currently, the Site consists of approximately 70 percent of gravel or paved surfaces. The Fuel Cell Project would reduce the existing impervious surface to 42 percent (or a 12,500± square foot reduction). The stormwater design meets all applicable regulatory standards. Additionally, any stormwater runoff associated

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<sup>4</sup> In Petition No. 957, the Council approved a proposal consisting of five DFC-3000 fuel cell systems. The Council concluded that the “[o]peration of the facility would have little impact on the environment. Air emissions would not be significant and would comply with all applicable state and air quality standards.” See September 23, 2010 Staff Report. The instant petition consists of only two custom made fuel cells based upon the DFC-3000, totaling 4.98 MWs, and would result in even less of an environmental impact than the proposal in Petition No. 957.

with the Fuel Cell Project will be incorporated into the overall stormwater design for the Studios Project. Accordingly, the runoff from the Fuel Cell Project will receive additional flow attenuation and water quality improvements associated with overall Studios Project design, which will incorporate Best Management Practices. See Exhibits 1, pp. 18-19, and 2.

#### **E. State and Local Land Use**

The Fuel Cell Project is consistent with State and local land use plans.

The State Plan of Conservation and Development (“State Plan”) sets forth six growth management principles for Connecticut. The Fuel Cell Project furthers many of those principles.<sup>5</sup>

- The first principle addresses the need to redevelop and revitalize regional centers and areas with existing or currently planned physical infrastructure. The State Plan provides that the State should “[capitalize] on opportunities to develop and deploy innovative energy technologies, and promote distributed generation and microgrids where practical to provide reliable electrical power during outages and peak demand periods . . . .” State Plan, p. 9. The Fuel Cell Project employs innovative technology manufactured by FCE and offers the opportunity to provide the South Windsor area with a microgrid in the event of an extended outage.
- The fourth principle focuses on the conservation and restoration of the natural environment, cultural and historical resources and traditional rural lands. The State Plan provides that the State should “[utilize] the state’s renewable power generation potential to the extent that is compatible with state goals for environmental protection, and minimize potential impacts to rural character and scenic resources when siting new power generation facilities and/or transmission infrastructure.” *Id.*, 19. The Fuel Cell Project will utilize a renewable energy source and will do so without a significant adverse effect on the important natural resources of the State. The Fuel Cell Project will be located in a developed area of the Town, within a zone specifically designed for commercial and industrial development. Additionally, as addressed in Part IV, *supra*, the Fuel Cell Project will help the State move closer to attaining its renewable portfolio goals.

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<sup>5</sup> The State Plan is available at: [http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/2013-2018\\_cd\\_plan.pdf](http://www.ct.gov/opm/lib/opm/igp/org/cdupdate/2013-2018_cd_plan.pdf). The two principles not mentioned, second and third principles address housing and transportation, respectively.

- The fifth principle addresses the protection of environmental assets critical to the public health and safety. The State Plan provides that the State should “[attain] National Ambient Air Quality Standards in accordance with Connecticut’s State Implementation Plan . . .” *Id.*, 24. As discussed in Part VI.C, *supra*, the Fuel Cell Project will emit virtually no harmful emissions because the fuel cell systems do not combust fuel.
- The sixth principal focuses on the promotion of integrated planning along all levels of government. The Fuel Cell Project, in conjunction with the Studios Project, is an example of collaboration among representatives of the State and Town as well as regional entities.

The Fuel Cell Project also comports with the Town’s Plan of Conservation and Development (“Town Plan”).<sup>6</sup> The Fuel Cell Project does so in the following ways:

- Page 14 of the Town Plan emphasizes the importance of growing its grand list so that the Town may fund Town services and amenities. According to the Town Plan, business development will also help to keep residential taxes down. *Id.*, c. 3, pp. 16-17. The Studios Project and the Fuel Cell Project will yield increased tax revenues. See Exhibit 4.
- The Town Plan underscores the importance of preserving natural resources. *Id.*, c. 5, pp. 29-34. As discussed in Exhibit 1, the Fuel Cell Project will not have a substantial adverse effect on the environment. The fuel cell systems will generate clean and efficient energy.
- The Town Plan encourages business development. *Id.*, c. 8, pp. 45-50. The Studios Project and the Fuel Cell Project will be located in the I-291 Corridor Development Zone, which “takes advantage of highway access and provides a variety of opportunities, creative approaches and flexibility.” *Id.*, p. 46.
- The Town Plan seeks to ensure that the utilities can accommodate anticipated growth. *Id.*, c. 14, pp. 85-90. The Fuel Cell Project will help CL&P provide adequate capacity to the Town, while also working towards the State’s renewable portfolio requirements.

Finally, the Fuel Cell Project comports with the Town’s zoning regulations. The Studios Project and the Fuel Cell Project will be located in the I-291 Corridor Development Zone, which

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<sup>6</sup> The Town’s Plan is available at: [http://www.southwindsor.org/Pages/swindsorct\\_planningdept/pocd/pocd\\_newly\\_adopted.pdf](http://www.southwindsor.org/Pages/swindsorct_planningdept/pocd/pocd_newly_adopted.pdf)

is zoned for commercial and industrial uses. Additionally, the Town Planning and Zoning Commission has already approved the Studios Project.

**F. Resource Review**

**1. Wetlands**

The Fuel Cell Project will not have an impact on any wetlands or watercourses. The nearest wetland area to the Site is approximately 400 feet to the west, separated by John Fitch Boulevard. Additionally, the Fuel Cell Project is not located within the 100-year or 500-year floodplains. See Exhibit 1, pp. 17, 21.

**2. Wildlife**

The Fuel Cell Project will not impact any habitats that support Federal or State endangered, threatened or special concern species. The majority of the Fuel Cell Project is located within existing developed areas. The project will displace small areas of forest and an old field, but these habitats will not have a significant impact on wildlife considering the relative small size of the areas to be displaced and the high level of human activity in the area. CTS has proposed a vegetated earthen berm along Chapel Road, which will help mitigate any of the minor wildlife impacts, if any, associated with the Fuel Cell Project. *See id.*, p. 18.

**3. Historic, Archaeological and Recreational Resources**

The Fuel Cell Project will not impact any historic resources. The nearest historical resources include the Windsor Farms Historic District and the Elmore Houses, neither of which will have views of the Fuel Cell Project. Because there are no known archaeological sites at or near the Site, the Fuel Cell Project will not have an adverse impact on any archaeological resources. CTS has requested an opinion from the State Historic Preservation Office (“SHPO”) that the Fuel Cell Project will not have an adverse impact on the State’s historic and cultural

resources. CTS anticipates that SHPO will conclude that the project will not have an adverse impact on these resources. Additionally, there are no recreational areas that would be impacted by the Fuel Cell Project. *See id.*, pp. 20-21.

#### **4. Visibility**

The Fuel Cell Project will not have an adverse visual impact on the surrounding area. The general vicinity of the Site consists largely of commercial uses, which aligns with the land uses permitted in the I-291 Corridor Development zone. As discussed on page 16 of the Environmental Assessment, the views of the fuel cell systems from the nearby commercial properties would be very limited. These limited views of the fuel cell systems result from a combination of the relatively low height of the fuel cell systems (24± feet), distance and slight variations in topography. Furthermore, the proposed vegetated earthen berm will mitigate views of the fuel cell systems from the immediate vicinity of the Site. Motorists along John Fitch Boulevard and Chapel Road would have passing views, with the views from Chapel Road minimized by the proposed berm. The only residence within 1000 feet of the Site, which is located 910 feet west of the Site, on the north side of Chapel road and across the Podunk River, would not have any views of the fuel cell systems. *See id.*, p. 22, Appendix A.

#### **G. Noise**

The estimated noise levels of the Fuel Cell Project were assessed to determine if the proposed project would comport with the Town's noise regulations, which were approved by DEEP on November 3, 1982. Based upon the zone classification of the Site and the abutting properties, the Fuel Cell Project must comply with noise levels set for industrial emitters and receptors. A copy of the Sound Level Report is attached hereto as Exhibit 10. The regulations provide that the noise emitted from the Site cannot exceed 70dBAs. *Id.*, p. 2. The Town's noise

regulations are stricter than those established by the State. *Id.* The noise level emitted by the fuel cell systems, with the stand-by diesel generator in operation, would be approximately 68dB. *Id.*, p. 4. Without the diesel generator in operation, the noise emitted by fuel cell systems would be 66dB. *Id.*, Attachment E. Accordingly, the Fuel Cell Project would comply with the State and the Town's noise regulations.

## V. CONCLUSION

This Petition and the attached exhibits demonstrate that the Fuel Cell Project will not have a substantial adverse environmental effect. The project will also meet the air and water quality standards of DEEP. Accordingly, a Certificate of Environmental Compatibility and Public Need is not required for the installation of the Fuel Cell Project. CTS, therefore, respectfully requests that the Council approve the siting of the Fuel Cell Project by declaratory ruling.

Respectfully submitted by,

CTS ENERGY, LLC

By: \_\_\_\_\_

  
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