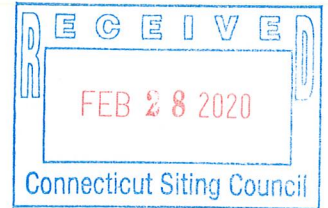


**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**



In the Matter of Petition No. 1214

Declaratory Ruling regarding a Certificate of Environmental Compatibility;
Pfizer Groton campus, 445 Eastern Point Road, Groton, Connecticut

ORIGINAL

Connecticut Siting Council

February 28, 2020

TOWN OF GROTON'S PETITION FOR RECONSIDERATION

The Town of Groton respectfully requests, pursuant to Conn. Gen. Stat. § 4-181a, that the Siting Council (the "Council") reconsider and vacate its February 14, 2020 purported ruling or "decision" (hereinafter "Decision"), a copy of which is attached hereto. The Decision was issued to the Town of Groton, which presumably was made a party to this docket proceeding *ex parte*, and it adversely and substantially affects the legal and financial interests of the Town.

The reasons for the Petition are manifold, and include the following:

1. The asserted reason for the Decision is that a public officer of the Town of Groton "(o)ver the past several months" "asked" to explain "jurisdiction" of the Connecticut Siting Council. These statements are false.

2. The Council provided no notice to the Town of Groton of the pendency of this proceeding, did not offer or permit the Town of Groton to submit evidence and argument, and in re-opening this proceeding and issuing the Decision the Council violated its own rules of practice, the applicable Connecticut General Statutes, and the legal requirements of fundamental fairness.

3. The Council lacked all jurisdiction to have rendered the Decision. This docketed proceeding was closed several years ago. The Council therefore is illegally using this docket as an open platform to make further decisions, orders and modifications, to add parties at will and without notice, to advance private commercial interests, and to affect the legal rights of parties, all without following proper legal process.

4. Based upon information and belief, the Decision is designed to assist the financial interests of a party that has brought litigation against the Town, litigation which does not involve the Council and which litigation is pending currently in the Superior Court of the State of Connecticut. This therefore is being done to disadvantage of the Town and affect the judicial

process and the rights of the parties therein. The Decision is *ultra vires*, and demonstrates predisposition and bias in favor of a private, commercial interest.

5. The Town of Groton therefore contests the findings, terms and conditions of the Decision, and challenges the legal authority upon which the Decision was issued. In general, the grounds for the Petition are that the administrative findings, inferences, conclusions and decisions supporting the Order are:

- (i) in violation of constitutional or statutory provisions;
- (ii) in excess of the statutory authority of the agency;
- (iii) made upon unlawful procedure;
- (iv) affected by other errors of law;
- (v) clearly erroneous in view of the reliable, probative and substantial evidence of the whole record;
- (vi) arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion; and
- (vii) issued in the absence of regulatory provision and on unauthorized regulatory purpose, that being an effort by the Council administratively to become a *de facto* party to private litigation and to assist the economic interests of an industry party therein.

The Town of Groton therefore requests an opportunity to be heard on this matter, to correct the underlying facts, and requests that the Council vacate the Decision as void *ab initio*.

TOWN OF GROTON



Richard S. Cody
Suisman, Shapiro, Wool, Brennan
Gray & Greenberg, P.C.
P.O. Box 1591
New London, CT 06320
Phone: 860-442-4416
Fax: 860-442-0495
Email: rcody@sswbgg.com
Its Attorneys

CERTIFICATION

I hereby certify that a copy of the foregoing document was sent via electronic mail to the following service list on February 28, 2020:

Jennifer D. Arasimowicz, Esq.
Vice President, Managing Counsel
FuelCell Energy, Inc.
3 Great Pasture Road Danbury, CT 06810
jarasimowicz@fce.com

Dmitriy Kamenetskiy
Project Manager
FuelCell Energy, Inc.
3 Great Pasture Road Danbury, CT 06810
dkamenetskiy@fce.com

Stephen W. Studer, Esq.
Berchem, Moses & Devlin, P.C.
75 Broad Street Milford, CT 06460
sstuder@bmdlaw.com

Robert L. Berchem, Esq.
Berchem, Moses & Devlin, P.C.
75 Broad Street Milford, CT 06460
rberchem@bmdlaw.com



Richard S. Cody