



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

E-Mail: siting.council@ct.gov

Web Site: portal.ct.gov/csc

VIA ELECTRONIC MAIL

May 10, 2021

John P. Marini, Esq.
City of Ansonia
253 Main Street
Ansonia, CT 06401
jmarini@mzslaw.com

RE: **PETITION NO. 1395A** – Windham Solar LLC amended petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of one 1.0-megawatt (MW) and one 0.99 MW solar photovoltaic electric generating facilities located at 31 Benz Street, Ansonia, Connecticut. Reconsideration of March 12, 2021 Final Decision.

Dear Attorney Marini:

The Connecticut Siting Council (Council) is in receipt of your email, dated May 6, 2021, submitted on behalf of the City of Ansonia (City), requesting a public hearing on the Council's reconsideration of its March 12, 2021 final decision on the above-referenced matter.

On June 23, 2020, Windham Solar, LLC (WS) submitted Petition 1395A to the Council pursuant to Connecticut General Statutes (CGS) §4-176 and §16-50k. On June 26, 2020, the Council provided notice of the petition, including, but not limited to, direct correspondence to the City seeking comments on the petition; posted the petition on its website; and issued a petition proceeding schedule.

On November 19, 2020, the Council granted the City's November 6, 2020 request for party status and pursuant to CGS §4-176(e), set the date by which to render a final decision on Petition 1395A as March 20, 2021, which was the deadline for a final decision per the 90-day extension of administrative agency deadlines under state emergency orders. Neither WS, the City, any interested person or the Council requested a public hearing within the CGS §4-176(e) 60-day agency action deadline, which was extended from August 22, 2020 to November 21, 2020 by state emergency orders.

Also on November 19, 2020, the Council issued a revised petition proceeding schedule with a deadline of December 3, 2020 for the exchange of interrogatories between participants. In its November 6, 2020 request for party status, the City "proposes to participate by propounding a set of interrogatories upon the Petitioner." The City issued interrogatories to WS on February 22, 2021, over two months after the Council's deadline for the exchange of interrogatories between participants. Also in its November 6, 2020 request for party status, the City "seeks to be allowed to participate in any hearing scheduled in this matter." Yet, the City did not request a public hearing at any time while Petition 1395A was pending with the Council.

On March 12, 2021, the Council issued a final decision to deny Petition 1395A. On March 26, 2021, pursuant to CGS §4-181a(a), WS submitted a Motion to Reconsider the Council's March 12, 2021 final decision. Under CGS §4-181a(a), if the agency decides to reconsider the final decision, ***the agency shall conduct additional proceedings as may be necessary*** to render a decision to modify, affirm or reverse the

final decision not later than 90 days following the date on which the agency decides to reconsider the final decision. (Emphasis added).

During a regular meeting held on April 22, 2021, the Council voted to grant WS' Motion to Reconsider and in its decision on WS' Motion to Reconsider, the Council explicitly directed the development of "***a schedule for the exchange of additional interrogatories***, specifically limited to maintenance of on-site water quality as it relates to implementation of wetland buffers and on-site processing of fill material," as the additional proceedings necessary to render a decision to modify, affirm or reverse the final decision. (Emphasis added). The Council did not order a public hearing in its April 22, 2021 decision to grant WS' Motion to Reconsider.

A public hearing is not required by statute and holding a public hearing in a petition proceeding is discretionary to the Council. Over the 10 months Petition 1395A has been pending with the Council, the City did not request a public hearing. No request for a public hearing was in the City's November 6, 2020 request for party status nor the City's April 9, 2021 comments on WS' Motion to Reconsider, or any time in between.

The Council's April 22, 2021 decision to grant WS' Motion to Reconsider the final decision directed the development of a schedule for the exchange of additional interrogatories as the additional proceedings necessary to render a decision to modify, affirm or reverse the final decision under CGS §4-181a(a). **Therefore, the City's May 6, 2021 request for a public hearing in the Council's reconsideration of this matter is moot.**

Please be advised that May 6, 2021 was the deadline for the exchange of interrogatories between participants for the Council's reconsideration of its final decision. Subject to any objection from WS, the City may have one additional week to submit written interrogatories specifically limited to maintenance of on-site water quality as it relates to implementation of wetland buffers and on-site processing of fill material in this matter consistent with the Council's April 22, 2021 decision to grant WS' Motion to Reconsider the final decision. **If WS does not object, the final deadline for any written interrogatories shall be May 13, 2021.**

Thank you.

Sincerely,

s/Melanie A. Bachman

Melanie A. Bachman
Executive Director

Cc: Service List dated November 19, 2020