



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: www.ct.gov/csc

VIA ELECTRONIC MAIL

June 15, 2020

David W. Bogan, Esq.
Locke Lord LLP
20 Church Street
Hartford, CT 06103

RE: **PETITION NO. 1397** - Constitution Solar, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 20-megawatt AC solar photovoltaic electric generating facility on approximately 149 acres comprised of four separate parcels located off of Cornell Road in Plainfield, Connecticut and associated electrical interconnection.

Dear Attorney Bogan:

The Connecticut Siting Council (Council) is in receipt of your June 15, 2020 correspondence requesting to change the Service List and to expedite the schedule for the above-referenced matter.

Attorney Boucher will be removed from the Service List in accordance with the request to change the Service List.

With regard to the request to expedite the schedule, the correspondence indicates, "Pursuant to Connecticut General Statutes §4-176(i), the Council would normally render a decision within 180 days..." However, this statutory provision expressly allows for an extension of the 180-day decision deadline "as may be agreed by the parties." The correspondence also refers to Governor Lamont's March 25, 2020 Executive Order 7M that allows administrative agencies to extend statutory and regulatory deadlines by no longer than 90 days **as they deem reasonably necessary** to respond to the COVID-19 pandemic.

Please be advised that the Council's office converted to full remote operations as of March 18, 2020 to respond to the COVID-19 pandemic. At that time, the Council canceled two scheduled public hearings due to the COVID-19 restrictions on public gatherings and the scheduling of two other statutorily-required public hearings on applications for certificates were similarly delayed. Please note that not one of these applicants or petitioners has requested an expedited schedule to date.

Please also be advised that in response to the COVID-19 pandemic, the Council could have placed all of its pending matters on a regular meeting agenda and denied them without prejudice. It did not. Rather, as noted in the correspondence, the Council continues its commitment to its workload during this unprecedented time **with limited resources**. At present, the Council has 4 pending public hearings, 12 pending petitions for declaratory rulings, including the above, and numerous pending telecommunications matters to address within statutory and regulatory deadlines. Therefore, utilization of the statutory and regulatory deadline extension granted under Executive Order 7M, or any portion thereof, is reasonably necessary for the Council to fulfill the requirements under the Uniform Administrative Procedure Act and the Council's legislative charge under the Public Utility Environmental Standards Act.

The correspondence also indicates that the Constitution Solar Project has a commercial operation date of no later than November 11, 2021 that cannot be extended and requests the Council “endeavor” to issue a final decision on or before the 180-day deadline of September 23, 2020. Public records and the above-referenced petition for a declaratory ruling demonstrate that the Constitution Solar Project was selected in a Department of Energy and Environmental Protection Request for Proposals (RFP) in June 2017. Yet, the above-referenced petition for a declaratory ruling was not submitted to the Council until March 27, 2020.

Regardless of the passage of time between the project selection in the RFP and the submission of a petition for a declaratory ruling to the Council, Connecticut General Statutes §4-176(i) states, “If an agency does not issue a final decision within one hundred and eighty days after the filing of a petition therefor, **or within such longer period as may be agreed by the parties, the agency shall be deemed to have decided not to issue such ruling.**” (Emphasis added). Agreement by the parties is not required for the extension of the decision deadline granted to administrative agencies under Governor Lamont’s Executive Order 7M. Certainly, if there is any disagreement as to the applicability of the extension of the decision deadline under Executive Order 7M, a petition for a declaratory ruling as to the applicability of the Executive Order to pending petitions for declaratory rulings could be submitted. Or, in the alternative, if a final decision on the above-referenced petition for a declaratory ruling is not rendered by September 23, 2020, an appeal of the Council’s “final decision” not to have decided to issue such ruling could be filed.

As more fully described in the Council’s June 5, 2020 correspondence, a copy of which is attached for your convenience, “the Council voted to **set the date by which to render a decision** on the above-referenced petition for declaratory ruling as no later than December 22, 2020 in accordance with Section 4-176(e) of the Connecticut General Statutes, Section 16-50j-40(c) of the Regulations of Connecticut State Agencies and Governor Lamont’s Executive Order No. 7M issued on March 25, 2020.”

Thank you for your consideration in this very important matter.

Sincerely,

s/Melanie A. Bachman

Melanie A. Bachman
Executive Director

MB/RM/lm

c: Service List



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VIA ELECTRONIC MAIL

June 5, 2020

David W. Bogan, Esq.
Kathryn A. Boucher, Esq.
Locke Lorde LLP
20 Church Street
Hartford, CT 06103

RE: **PETITION NO. 1397** - Constitution Solar, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 20-megawatt AC solar photovoltaic electric generating facility on approximately 149 acres comprised of four separate parcels located off of Cornell Road in Plainfield, Connecticut and associated electrical interconnection.

Dear Attorneys Bogan & Boucher:

At a public meeting held on June 4, 2020, the Connecticut Siting Council voted to set the date by which to render a decision on the above-referenced petition for a declaratory ruling as no later than December 22, 2020 in accordance with Section 4-176(e) of the Connecticut General Statutes and Section 16-50j-40(c) of the Regulations of Connecticut State Agencies and Governor Lamont's Executive Order No. 7M issued on March 25, 2020.

Sincerely,

s/Melanie A. Bachman

Melanie A. Bachman
Executive Director

MAB/RDM/lm

c: The Honorable Kevin Cunningham, First Selectman, Town of Plainfield
Ryan Brais, Zoning Officer, Town of Plainfield
The Honorable Christopher Lippke, First Selectman, Town of Canterbury
Melissa Gil, Zoning/Wetland Enforcement Officer, Town of Canterbury
Junior Aguaze, Constitution Solar, LLC