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April 7, 2021

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

Re: Petition 1406 - Doosan Fuel Cell America, Inc. petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a grid-side 9.66-megawatt fuel cell facility and associated equipment to be located at 600 Iranistan Avenue, Bridgeport, Connecticut, and associated electrical interconnection to the United Illuminating Company's existing Congress Street Substation – *Motion of NuPower Bridgeport FC, LLC to Reopen and Modify the Decision in Petition 1406 Due to Changed Conditions*

Dear Ms. Bachman:

NuPower Bridgeport FC, LLC (“NuPower”) hereby submits to the Connecticut Siting Council (“Council”) a Motion to Reopen and Modify Petition 1406.

Given that the Council has waived all hard copy filing requirements as part of its response to the COVID-19 pandemic, by this letter, NuPower submits to the Council an electronic copy of its Motion. A hard copy of the Petition will be mailed to the Council.

Should the Council require any additional material for the review of this Petition or have any questions regarding the Petition, please do not hesitate to contact me.

Very truly yours,



Bruce L. McDermott

Enclosure

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STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Doosan Fuel Cell America, Inc. petition for a declaratory : Petition 1406
ruling, pursuant to Connecticut General Statutes §4-176 :
and §16-50k, for the proposed construction, maintenance :
and operation of a grid-side 9.66-megawatt fuel cell facility :
and associated equipment to be located at 600 Iranistan :
Avenue, Bridgeport, Connecticut, and associated electrical :
interconnection to the United Illuminating Company's :
existing Congress Street Substation : April 7, 2021

MOTION OF NUPOWER BRIDGEPORT FC, LLC
TO REOPEN AND MODIFY PETITION 1406

I. Introduction and Background

Pursuant to Connecticut General Statutes §4-181a(b), NuPower Bridgeport FC, LLC (“NuPower”), a Connecticut limited liability company, respectfully moves the Connecticut Siting Council (“Council”) to reopen and modify its December 17, 2020 decision in Petition 1406 based on changed conditions described herein. The 2020 Decision denied, without prejudice, the request to construct, operate and maintain a fuel cell facility of up to 9.66-megawatts (“MW”) and associated equipment to be constructed within an approximately 0.5 acre property at 600 Iranistan Avenue, Bridgeport, Connecticut (the “Project”).

Support for the Council's reopening on the basis of change conditions is discussed in this Motion and further described in the revised petition submitted to the Council on

March 31, 2021.¹ NuPower respectfully requests that the Council reopen the Petition 1406 evidentiary proceeding, modify the decision and issue a declaratory ruling that no Certificate is required for the construction operation and maintenance of the Project.

II. Procedural Background

On May 11, 2020, Doosan Fuel Cell America, Inc. (“Doosan”) filed a petition for a declaratory ruling that a Certificate is not required for the construction, operation and maintenance of the Project. The Project will be located within an approximately 0.5 acre property at 600 Iranistan Avenue, Bridgeport, Connecticut. On December 17, 2020, the Council voted to deny without prejudice because “the petition remains incomplete and the proposed facility appears to have a substantial adverse environmental effect, particularly with regard to matters of public health and safety.” December 18, 2020 Letter from the Council to Walter Bonola of Doosan (the “2020 Decision”). The proposed modified project discussed in Petition 1406A fully responds to the Council’s findings and concerns in the 2002 Decision.

The 2020 Decision identifies the following deficiencies and potential adverse effects in public health and safety: (1) lack of site detail provided in project plans; (2) failure to address natural gas safety issues; (3) failure to address the safety implications of the facility’s location in relation to other existing infrastructure; (4) failure to address potential vapor plume hazards to the I-95 highway or potential mitigation

¹ In filing the March 31, 2021 petition, NuPower identified it as “Petition 1406A” and will be referred to the same in this Motion. The contents of Petition 1406A are incorporated into this Motion by reference as if it were an attachment to this Motion.

measures; and (5) failure to address the potential to incorporate noise mitigation measures prior to the commencement of facility operation. 2020 Decision at 1. In addition to information required by the Council's statutes, regulations and filing guidelines, Petition 1406A addresses each of the deficiencies identified in the 2020 Decision:

1. Site detail in project plans. Detailed site plan drawings that show the locations and details of the proposed building, other equipment/infrastructure, and overhead/underground are provided in Attachment A of Petition 1406A.

2. and 3. Natural gas safety issues. At the request of NuPower, Doosan conducted a hazard analysis of the Project to determine the risks associated with the installation of the Project and has developed mitigation plans for the risks identified. The analysis has resulted in design modifications to prevent an explosion. See Section X of Petition 1406A.

4. Vapor plume hazards to the I-95 highway and potential mitigation measures. NuPower retained Trinity Consultants to conduct a modelling analysis to predict fogging and icing event caused by the Project. See Attachment B of Petition 1406A. Trinity determined any existing fogging/icing conditions "are primarily driven by the existing, natural metrological conditions in the region". For example, while there were over 116 hours of fog in 2016 – 2020 the facility's modeled plume-induced fogging conditions produced a total of three hours over the five year period. See Section IX(J) and Attachment B of Petition 1406A at 1, 9.

5. Since the 2020 Decision, NuPower has worked with Doosan to further address noise emitted by the Project and mitigation measures have been incorporated into the design of the Project. See Section IX(H) of Petition 1406A.

In light of the foregoing changes, NuPower moves that the Council reopen Petition No. 1406 due to change conditions and consider additional evidence that the construction maintenance and operation of the Project will not create a substantial adverse environmental effect.

III. Council Precedent and Legal Authority for Reconsideration

Pursuant to Conn. Gen. Stat. §4-181a(b), the Council has the authority to reopen Petition 1406 and modify the 2020 Decision due to changed conditions that have occurred since December 2020. Specifically, “on a showing of change conditions the agency may reverse or modify the final Decision at any time at the request of any person or an agency’s own motion.” Conn. Gen. Stat. §4-181a(b). The Council has previously exercised its authority under Conn. Gen. Stat. §4-181a(b) which “permits an agency to consider whether changed conditions exist and then consider whether such changed conditions if any justify reversing or modifying the Council’s original Decision...”. See Docket No. 192, Opinion for Connecticut General Statutes (CGS) § 4-181a(b) dated January 4, 2007, p. 1. The Council will find changed conditions when there is “new information or facts, identification or any unknown or unforeseen events or evidence... that were not available at the time of the final decision”. See Docket No. 190B, Conclusions of Law dated September 19, 2012, p. 4.

Consistent with this legal standard, the Council has reopened a number of dockets and revised final decisions based on new facts or when circumstances not previously contemplated by the Council have arisen. For example, the Council initially denied without prejudice an application for a Certificate for an undersea HVDC cable connecting Connecticut and Long Island, principally because of the anticipated impacts of crossing shellfish beds. In Docket No. 208, the Council thereafter approved a modified project that located the cable in and beneath the federal navigation channel, where shellfish cultivation was not allowed.² See *also*, Docket No. 187, PDC-EI Paso Milford LLC, Opinion for Connecticut General Statutes (CGS) §4-181a (b) Proceeding, April 7, 2009, page 2 (reopening the docket to allow the continued use of potable water because “at the time of certification, the record did not speak to sources of cooling water for contingency events.”); Docket NT-2010, Opinion, March 17, 2011 (finding that the adoption of new industry practices regarding gas pipe cleaning constituted changed conditions warranting prohibitions and limitations on fuel pipeline/system cleanings); Docket No. 187A, Milford Power Company, LLC, Opinion, December 2, 2010 (finding that an increase in natural gas supply, improvements to the electrical transmission grid and construction of other generating facilities were changed conditions supporting removal of dual fuel requirements); Docket No. 225B, Kleen Energy Systems, LLC, Opinion, July 22, 2009 (finding that the State’s imposition of an aquifer protection zone was a changed condition justifying relocation of oil pipeline route); and Docket No. 470, NTE Connecticut, LLC, Opinion, June 6, 2019 (finding pre-qualification by ISO-NE to participate in Forward

² Cross-Sound Cable Company, LLC application for a Certificate of Environmental Compatibility and Public Need for the construction, operation, and maintenance of a high-voltage direct current (HVDC) submarine electric transmission and fiber optic cable system from One Waterfront Street, New Haven, Connecticut to Brookhaven, New York, Decision and Order, January 3, 2002.

Capacity Auction, air permit modifications, use of a different combustion turbine generator and other changes justified a Certificate for the plant).

As set forth in this Motion and Petition 1406A, numerous conditions have changed since the Council's denial without prejudice. Significantly all of the changes are designed to respond to the guidance and the Council's 2020 Decision.

IV. Changed Conditions and New Facts

In response to the 2020 Decision, NuPower has further designed the Project while simultaneously examining the safety and environmental impacts of the Project. For example, while the 2020 Decision noted that the "project plans provided lack site detail" Petition 1406A includes 40 detailed engineering drawings providing details on the site plan, floor arrangements, as well as the structural, mechanical and electrical aspects of the Project. See Attachment A of Petition 1406A.

NuPower and Doosan responded to the 2020 Decision's identified of deficiencies concerning natural gas safety issues by including two design features to mitigate risks associated with explosions/fires due to natural gas leaks which features will stop the flow of natural gas in the event there is a ruptured gas line or large impact to the structure:

- Excess flow valve - Excess flow valves are designed to automatically restrict and stop flow when the natural gas flow exceeds certain limits, such as when a service line is damaged due to excavation or vehicle impact. When activated, the excess flow valve will stop the flow of natural gas, limiting the risk of escaping natural gas due to damage or a pipe failure. An excess flow valve will be installed local to the natural gas utility regulator.

- Earthquake valve - An earthquake, or seismic, valve automatically shuts flow of natural gas in the event a seismic event is detected or the facility is impacted by a vehicle. This valve will be installed where the natural gas line comes into the structure and will stop flow of natural gas immediately upon detecting a significant impact to the structure. See Section X and Attachment A of Petition 1406A, Sheet M2.0.

In response to the 2020 Decision's determination that the potential vapor plume hazards to I-95 were not addressed, NuPower and Doosan retained Trinity Consultants to analyze the source-induced fog and ice from the facility's exhaust streams. That analysis determined that the Project will have an insignificant impact: During the period 2016 – 2020, the modeled plume induced conditions produced only one hour of icing conditions and three total hours of fog over the five year period. In comparison, natural meteorological conditions produced 116 hours of fog and icing over the same time period. See Section IX(J) of Petition 1406A and Attachment B of Petition 1406A.

Finally, noise mitigation measures have been incorporated into the design of the Project in response to the 2020 Decision which determined the petition "does not address the potential to incorporate noise mitigation measures prior to the commencement to facility operation" in order to provide sufficient sound attenuation so the noise generated by the fuel cells will not exceed applicable standards. The Project design now includes a sound attenuation product for use in the structure to bring noise emissions below City and State standards. See Section IX(H) and Attachments M and N of Petition 1406A.

V. Conclusion

NuPower Bridgeport FC, LLC respectfully requests that the Council reopen Petition No. 1406 for the limited purpose of reconsidering the new information provided herein and in Petition 1406A and any other information the Council may deem relevant or appropriate and issue a declaratory ruling that no Certificate is need pursuant to Conn. Gen. Stat. §16-50k.

Respectfully submitted,

On behalf of
NuPower Bridgeport FC, LLC

By: _____

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