



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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VIA ELECTRONIC MAIL

June 22, 2023

Cory R. Spaulding
Leslie A. Yeisley
716 Beaumont Highway
Lebanon, CT 06249
coryspaulding@earthlink.net

RE: **PETITION NO. 1566** - The Connecticut Light and Power Company d/b/a Eversource Energy petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed Card Substation to Wawecus Junction Upgrade Project consisting of the replacement of electric transmission line structures along its existing 12.5-mile electric transmission right-of-way shared by its existing 115-kilovolt (kV) Nos. 1080/1490 and 1080/1070 Lines between Card Substation in Lebanon, Stockhouse Road Substation in Bozrah and Wawecus Junction in Norwich, Connecticut traversing the municipalities of Lebanon, Franklin, Bozrah and Norwich, and related electric transmission line and substation improvements. **Cory Spaulding and Leslie Yeisley May 22, 2023 Requests.**

Dear Cory Spaulding and Leslie Yeisley:

At a public meeting held on June 22, 2023, the Connecticut Siting Council (Council) ruled on the following May 22, 2023 Requests related to the above-referenced petition for a declaratory ruling:

1) Request for Party Status and CEPA Intervenor Status.

The Council granted the Request for Party and CEPA Intervenor Status **with the condition** that participation shall be limited to in-right-of-way work proposed to be performed by Eversource in Petition 1566.

All filings submitted to the Council must consist of an original and 15 copies with the petition number, properly collated and paginated, and bound. In accordance with the State Solid Waste Management Plan, the Council is requesting that all filings be submitted on recyclable paper, primarily regular weight white office paper. Please avoid using heavy stock paper, colored paper, and metal or plastic binders and separators. It is also requested that an electronic version of all filings be sent to siting.council@ct.gov.

The Council's preferred service to parties and intervenors is electronic mail. If you wish to receive hard copies of documents via regular mail, please notify the Council in writing. Parties and intervenors are required to serve all other parties and intervenors a copy of any material submitted in this petition, unless service is waived. A copy of the current service list for this matter can be found on the Council's website.

Copies of all documents filed to date in this matter are available for your review at the

Council's office and on the Council's website under pending matters.

2) Request to Reject the Petition for Failure to Provide Best Management Practices.

The Council denied this request.

3) Request to Reject the Petition for Failure to Comply with NEC and/or NESC.

The Council denied this request.

4) Request to Separate OPGW and Structure Replacement Work.

The Council denied this request.

5) Request for Dismissal of the Petition for Incompleteness.

The Council denied this request.

6) Request for a Public Hearing.

The Council denied this request.

Enclosed for your information is a copy of the staff report on the May 22, 2023 Requests, dated June 22, 2023.

Please contact our office if you have any questions.

Sincerely,



Melanie A. Bachman
Executive Director

Enclosure: Staff Report, dated June 22, 2023
Information Guide to Party and Intervenor Status in a Petition for a Declaratory
Ruling Without a Public Hearing
Schedule, dated June 22, 2023

MAB/MP/laf

c: Service List, dated June 22, 2023



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DATE: June 22, 2023

TO: Council Members

FROM: Melanie A. Bachman *MAB*
Executive Director/Staff Attorney

RE: **PETITION NO. 1566** - The Connecticut Light and Power Company d/b/a Eversource Energy petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed Card Substation to Wawecus Junction Upgrade Project consisting of the replacement of electric transmission line structures along its existing 12.5-mile electric transmission right-of-way shared by its existing 115-kilovolt (kV) Nos. 1080/1490 and 1080/1070 Lines between Card Substation in Lebanon, Stockhouse Road Substation in Bozrah and Wawecus Junction in Norwich, Connecticut traversing the municipalities of Lebanon, Franklin, Bozrah and Norwich, and related electric transmission line and substation improvements. **Cory Spaulding and Leslie Yeisley May 22, 2023 Requests– Staff Report.**

On May 22, 2023, owners of an approximately 65-acre forested parcel traversed by the existing electric transmission line facility right-of-way (ROW), Cory Spaulding and Leslie Yeisley (Spaulding), submitted six (6) requests related to the above-referenced petition for a declaratory ruling for the Card Substation to Wawecus Junction Upgrade Project (Petition or Project) that was submitted to the Connecticut Siting Council (Council) by The Connecticut Light and Power Company d/b/a Eversource Energy (Eversource) on April 12, 2023, as follows:

1. Request for Party and Connecticut Environmental Protection Act (CEPA) Intervenor Status;
2. Request to Reject the Petition for Failure to Provide Best Management Practices;
3. Request to Reject the Petition for Failure to Comply with the National Electric Code (NEC) and/or National Electric Safety Code (NESC);
4. Request to Separate Optical Ground Wire (OPGW) Installation and Structure Replacement Work;
5. Request for Dismissal of the Petition for Incompleteness; and
6. Request for a Public Hearing.¹

A general theme throughout the 6 requests relates to electric transmission line asset condition maintenance improvements associated with the updated NESC conductor clearance requirements that occurred between 2017 and 2019 in a section of the above-referenced Eversource ROW between Structures 7784 and 7786. These electric transmission line asset condition improvements were completed as part of Council-approved Sub-petition 1293-LFBNM-01 *prior to* Spaulding's August 13, 2020 acquisition of Parcel No. 221-50 in Lebanon (identified as LL#6022 on Map Sheet 5 of the Sub-petition and LL#226A-287 on Map Sheet 6 of Petition 1566) that is servient to the existing Eversource ROW.² See Figures 1 and 2.

¹ Petition 1566 Record, available at https://portal.ct.gov/CSC/3_Petitions/Petition-Nos-1501-1600/PE1566

² In 2016, Spaulding acquired Parcel No. 221-47 located at 716 Beaumont Highway in Lebanon. This parcel is not identified on the Map Sheets for Sub-petition 1293-LFBNM-01 or Petition 1566 because *it is not servient to the Eversource ROW*.

The ROW traverses Parcel No. 221-50/LL#6022/LL#226A-287. It was established in 1934.³ Relevant portions of the easement granting Eversource rights across the parcel, cited frequently throughout Spaulding's 6 requests, are as follows:

Said electric lines may consist of poles, towers, other supporting structures (which may be substituted one for the other at any time), circuits, cables, wires, cross arms, guy wires, anchors, guy stubs and other fixtures and appurtenances, any or all of which constituent parts of said electric lines may be erected, relocated, replaced, repaired or changed in number, size or type from time to time.

Together with the right to trim, cut, take down and remove at any and all times such trees, parts of trees, limbs, branches, underbrush and structures within or projecting into the above described right of way as in the judgment of the grantee may interfere with or endanger any of said electric lines or their operation, whenever they are erected.

Together also with the right to enter upon, pass and transport materials, along and over said right of way to and from adjoining lands of others or highways.

Subsequent to the submission of the 6 requests in Petition 1566, on June 1, 2023, Spaulding submitted a Freedom of Information Act (FOIA) request to the Council for all Eversource notifications related to Structures 7785 and 7786. The Council responded to Spaulding's FOIA request on June 9, 2023. See Exhibit 1.

I. Existing Electric Transmission Line Facilities

Three existing electric transmission line facilities share the ROW. The 1080 Line extends in its entirety from Card Substation in Lebanon to Montville Substation in Montville. The 1490 Line extends in its entirety from Stockhouse Road Substation in Bozrah to Card Substation in Lebanon. The 1070 Line extends in its entirety from Stockhouse Road Substation to Fort Hill Farms Substation in Montville. These existing electric transmission line facilities were all constructed between 1950 and 1970.

On March 31, 2017, the Council issued a Declaratory Ruling in Petition 1293 (March 31, 2017 Declaratory Ruling) related to statewide transmission line asset condition maintenance improvements to comply with the updated NESC conductor clearance requirements.⁴ In its March 31, 2017 Declaratory Ruling, the Council approved a sub-petition process for each site-specific transmission line maintenance activity undertaken to comply with the updated NESC.⁵ Transmission line structure replacements undertaken to comply with the updated NESC were approved by the Council in sub-petitions for Eversource's 1080/1490 Lines (Sub-petition 1293-LFBNM-01) and 1070/1080 Lines (Sub-petition 1293-LBF-01) in 2017 and 2021, respectively. The approved structure replacements and related maintenance activities were completed between 2018 and 2021.

A. Eversource Sub-petition 1293-LFBNM-01

On July 17, 2017, pursuant to the Council's March 31, 2017 Declaratory Ruling, Eversource submitted Sub-petition 1293-LFBNM-01 to replace 51 wood electric transmission line structures due to age and woodpecker

³ Spaulding Request for a Public Hearing, Exhibit 3.

⁴ Petition 1293, available at https://portal.ct.gov/CSC/3_Petitions/Petition-Nos-1291-1300/Petition-No-1293Eversource

⁵ RCSA §16-50j-2a(29)(2023) ("Site" means a contiguous parcel of property with specified boundaries, including, but not limited to, ... the right-of-way, access and easements on which a facility and associated equipment is located.)

damage with weathering steel transmission structures and to install OPGW within its 1080/1490 Lines ROW.⁶ In compliance with the Council's Declaratory Ruling, Eversource notified the chief elected officials of the municipalities and the 35 abutting property owners to the ROW. The Council did not receive any comments from the municipalities or the property owners and approved the Sub-petition on August 16, 2017.

On March 28, 2018, Eversource requested to use a new in-ROW access road via Bender Road between Structures 7804 and 7805 located southeast of Beaumont Highway in Lebanon for access to Structures 7805 through 7808. In-field conditions determined the original section of access road between Beaumont Highway and Structure 7808 was too steep and too proximate to an Eversource electric distribution line for safe movement of construction vehicles. The Council approved the new access road on April 3, 2018.

On April 24, 2018, Eversource requested to use a new in-ROW access road via McNaught Drive between Structures 6337 and 6338 located northeast of Fitch Hill Road in Montville for access to Structures 6339 and 7655. In-field conditions determined the original section of access road between Fitch Hill Road and Structure 6336 had limited sightlines unsafe for movement of construction vehicles due to a curve in the road. The Council approved the new access road on April 26, 2018.⁷

On June 8, 2018, Eversource requested to revise the in-ROW access road alignment between Structures 7789 and 7790 near Bender Road in Lebanon to eliminate switchbacks that were determined to be unsafe for construction vehicles and to install permanent in-ROW access roads rather than use temporary matting between Structures 7778 and 7781 near Chappell Road in Lebanon at the request of the underlying property owner. The Council approved the access road realignment and permanent access roads on June 11, 2018.

Replacement structures for the Sub-petition included Structure 7784, located on the approximately 65-acre forested parcel identified as Parcel No. 221-50 in the Lebanon Land Records and as LL#6022 in the Sub-petition. It is traversed by the Eversource ROW, located off Beaumont Highway and was owned by Jackson W. and Patricia C. Davis (Davis) between 1900 and 2020.⁸ The parcel is located to the northwest and up gradient of Susquetonscut Brook.⁹ Portions of the brook and associated wetlands are located within the Eversource ROW.

Eversource worked with private property owners and the municipalities for rights to use off-ROW access roads, including, but not limited to, a proposed off-ROW alternate access road via the gas transmission line between Structures 7787 and 7788 where it intersects with an existing in-ROW access road that extends north to Structure 7789 and south beyond Structure 7786.¹⁰ This proposed off-ROW alternate access road was subject to Eversource acquisition of easement/access rights. Eversource did not use this off-ROW access road; Eversource used an improved in-ROW access road that extends beyond Structure 7786 to Structure 7784.

Construction was completed on May 17, 2019.

On July 28, 2021, the Council received correspondence from Spaulding, who purchased Parcel No. 221-50/LL# 6022 from Davis on August 13, 2020, regarding construction work within the ROW on the parcel in the area of Structure 7785 associated with Sub-petition 1293-LFBNM-01. Specifically, Spaulding claimed his property was

⁶ Sub-petition 1293-LFBNM-01, *available at* https://portal.ct.gov/lib/csc/pending_petitions/2_petitions_1201through1300/pe1293/lebanon-franklin-bozrah-norwich-montville/pe1293_lfbnm-01_filing_20170717.pdf

⁷ Eversource also requested an increase of the size of the work pad for Structure 7655, which was also approved.

⁸ Town of Lebanon Land Records, *available at* <https://gis.vgsi.com/lebanonct/Parcel.aspx?pid=1525>; Sub-petition 1293-LFBNM-01, Map Sheet 5; Spaulding Request for a Public Hearing, Exhibit 1.

⁹ Sub-petition 1293-LFBNM-01, Map Sheet 5; Petition 1566, Map Sheet 6.

¹⁰ Sub-petition 1293-LFBNM-01, Map Sheets 4 and 5.

damaged by Eversource and the access road in the area of Structures 7784 to 7786 was constructed of gravel rather than temporary matting as specified in the Sub-petition and approved by the Council.

Structures 7785 and 7786 were not identified as Sub-petition replacement structures because the height of Structures 7785 and 7786 did not increase.¹¹ Structure 7784 was identified as a Sub-petition replacement structure because the height of Structure 7784 increased. Structure replacements that require an increase in height to comply with NESC conductor clearance requirements are subject to the Council's March 31, 2017 Declaratory Ruling. Structure replacements that do not require an increase in height to comply with the NESC conductor clearance requirements are not subject to the Council's Declaratory Ruling.¹² In the Sub-petition, the access road in the area of Structures 7784 to 7786 was depicted as a proposed in-ROW access road utilizing temporary upland construction matting.

On July 30, 2021, the Council sent correspondence to Eversource requesting information regarding the type of access road that was installed to facilitate construction on Structure 7784 and the current condition of the access road from Structures 7784 to 7786. This information included, but was not limited to, drainage and any grading performed to install the road, and an environmental mitigation plan, consistent with the requirements of Condition 1(d) of the Council's March 31, 2017 Declaratory Ruling.¹³ A copy was sent to Spaulding. See Exhibit 2.

On August 24, 2021, Eversource responded to the Council that the access road was constructed of gravel rather than the temporary upland construction matting depicted on the approved Sub-petition plans. This was an oversight. Eversource indicated all original drainage features installed during construction were re-established and outreach was made to schedule a site visit with Spaulding. A copy was sent to Spaulding. See Exhibit 3.

On September 7, 2021, the Council received additional correspondence from Spaulding insisting his property was damaged by Eversource and acknowledging he was contacted by three Eversource outreach representatives. The Council responded to Spaulding indicating Structure 7785 was not subject to the Council's Declaratory Ruling because it did not require a height increase to comply with the NESC, referencing the August 24, 2021 response from Eversource related to the access road and site visit, and recommending Spaulding contact an attorney to interpret the Eversource ROW across Parcel No. 221-50/LL#6022. On the same date, Spaulding received a response from the Federal Energy Regulatory Commission also recommending he contact an attorney with respect to the Eversource ROW across the property.¹⁴ A copy was sent to Eversource. See Exhibits 4 and 5.

B. Eversource Sub-petition 1293-LFB-01

On March 5, 2021, pursuant to the Council's March 31, 2017 Declaratory Ruling, Eversource submitted Sub-petition 1293-LFB-01 to replace 7 wood electric transmission line structures due to age and woodpecker damage with weathering steel transmission structures within its 1080/1490 Lines ROW.¹⁵ In compliance with the Council's Declaratory Ruling, Eversource notified the chief elected officials of the municipalities and the 5 abutting property owners to the ROW. The Council did not receive any comments from the municipalities or the

¹¹ Structure 7785 is an angle structure, typically installed at ROW angle points to support the full tension of the conductors.

¹² RCSA §16-50j-57(b)(1) (2023) (Routine general maintenance and one-for-one replacement of facility components does not constitute a modification to an existing energy facility that may have a substantial adverse environmental effect.)

¹³ Condition 1(d) requires, "A mitigation plan for any identified environmental impact, including, but not limited to, best management practices, erosion and sediment controls, re-vegetation and site stabilization."

¹⁴ Spaulding also sent a separate email to Council Member Louanne Cooley. The November 27, 2022 REMA Report is addressed to, "*Attorney Dwight Merriam, on behalf of the plaintiffs, Cory Spaulding and Leslie Yeisley.*"

¹⁵ Sub-petition 1293-LFB-01, available at https://portal.ct.gov/-/media/CSC/3_Petitions-medialibrary/Petitions_MediaLibrary/MediaPetitionNos1201-1300/PE1293/LFB_Lebanon_Franklin_Bozrah/PE1293-20210308_filing_1080-1490-SubPetitionLFB-01.pdf

property owners and approved the Sub-petition on April 6, 2021. Construction was completed on September 15, 2021.

II. Petition 1566

On April 12, 2023, Eversource submitted Petition 1566 to the Council for the proposed Project. It includes replacement of 38 overhead electric transmission line structures along 12.5 miles of existing ROW shared by its 1080/1490 and 1080/1070 electric transmission line facilities between Card Substation in Lebanon and Wawecus Junction in Norwich, and related electric transmission line and substation improvements. Of the 38 structures to be replaced, 32 replacements are asset condition-related and 6 replacements are OPGW-related. Other electric transmission line and substation improvements for the Project include, but are not limited to, replacement of overhead copperweld shield wire (conductor only) with OPGW (fiber optic-conductor hybrid) and installation of new underground All-Dielectric Self-Supporting (ADSS) fiber optic cable from the terminal structures to the control enclosures at Stockhouse Road and Card Substations.¹⁶

On April 13, 2023, the Council sent correspondence to the Towns of Bozrah, Franklin and Lebanon, and the City of Norwich, inviting the municipalities to submit comments on the Project by May 12, 2023. Also on April 13, 2023, pursuant to Connecticut General Statutes (CGS) §4-176, the Council developed a schedule for Petition 1566 that included the public comment period deadline (May 12, 2023), the 60-day action deadline (June 11, 2023) and the deadline for decision (October 9, 2023).

On May 5, 2023, Spaulding submitted a request for an extension of the public comment period deadline. The Council granted a two-week extension of the public comment period deadline.

On May 11, 2023, the Lebanon Inland Wetlands Commission submitted comments related to low impact methods of vegetation removal and remediation of disturbed areas. On the same date, pursuant to the 60-day action deadline under CGS §4-176(e), the Council voted to set the date by which to render a decision in this matter as no later than October 9, 2023, which is the 180-day statutory deadline for a final decision under CGS §4-176(i).

III. Spaulding Requests

On May 22, 2023, Spaulding submitted 6 requests related to Petition 1566. On May 24, 2023, the Council issued a memo to the Petition 1566 service list requesting comments or statements of position in writing with respect to whether each of the 6 requests should be granted or denied by June 12, 2023.

On June 12, 2023, Eversource submitted a response objecting to each of Spaulding's 6 requests with the exception of the Request for Party Status portion of Spaulding's first request.

Spaulding's 6 requests in Petition 1566 are as follows:

1. Request for Party and Connecticut Environmental Protection Act (CEPA) Intervenor Status;

Spaulding owns the approximately 65-acre forested Parcel No. 221-50/LL#226A-287 in Lebanon traversed by the Eversource ROW. The Request for Party and CEPA Intervenor Status references previous in-ROW

¹⁶ ADSS is not subject to conductor clearance requirements under the NESC. It facilitates communication between the substations at either end of the electric transmission line, including the OPGW, for fault protection and isolation.

work performed by Eversource on this parcel that is irrelevant to Petition 1566 and references future in-ROW work to be performed by Eversource on this parcel that is relevant to Petition 1566.

Staff recommends the Request for Party and CEPA Intervenor Status be granted *with the condition* that Spaulding's participation shall be limited to in-ROW work proposed to be performed by Eversource in Petition 1566.

2. Request to Reject the Petition for Failure to Provide Best Management Practices;

Spaulding claims Eversource's April 2022 Best Management Practices (BMPs) are not available in Petition 1566 or on the Eversource website. This is not correct. The link to the portable document format (pdf) of the Eversource BMPs is on its website under the heading, "Builders and Contractors," as Spaulding indicates, and the link is as follows: https://www.eversource.com/content/docs/default-source/builders-contractors/bmp-manual.pdf?sfvrsn=61bb8b62_0

Additionally, a direct link to the Eversource BMPs has been referenced in Council interrogatories and provided in Council staff reports for Eversource projects since publication of the document in April 2022.¹⁷

Most importantly, however, is that a copy of Eversource's BMPs is attached to Spaulding's Request for Dismissal of the Petition for Incompleteness as Exhibit 19.

Staff recommends the Request to Reject the Petition for Failure to Provide BMPs be denied.

3. Request to Reject the Petition for Failure to Comply with the National Electric Code (NEC) and/or National Electric Safety Code (NESC)¹⁸

Spaulding claims Petition 1566 does not comply with the filing requirements established by the Council in its March 31, 2017 Declaratory Ruling in Petition 1293 related to statewide transmission facility asset condition maintenance improvements to comply with the updated NESC conductor clearance requirements. Specifically, Spaulding claims Eversource did not notify abutting property owners or provide site plans and drawings depicting current field conditions. Page 1 of Spaulding's request states, "Petition 1566 depicts existing illegal unpermitted *work that was previously performed by Eversource.*" (Emphasis added).

First, Petition 1566 was not submitted to the Council as a sub-petition under the March 31, 2017 Declaratory Ruling in Petition 1293. It was submitted to the Council as a petition for a declaratory ruling under CGS §4-176 and §16-50k. In addition to 32 asset condition-related structure replacements to comply with the updated NESC conductor clearance requirements, Eversource proposes to replace 6 structures that are not asset condition-related, as well as to install OPGW and ADSS, among other transmission line and substation improvements, that are *beyond the scope of the Council's March 31, 2017 Declaratory Ruling.*

OPGW is a fiber optic-conductor hybrid cable commonly used for overhead installations. It directly relates to the updated NESC conductor clearance requirements.¹⁹ ADSS is a fiber optic cable commonly used for underground installations. It does not relate to the updated NESC conductor clearance requirements.²⁰ The

¹⁷ Petitions 1527, 1531, 1535, 1545, 1549 and 1556.

¹⁸ In the Request, NEC is referenced in relation to asset condition maintenance, which in this case, relates to NESC.

¹⁹ 2023 NESC, pages 89-90 (overhead fiber optic communications and conductor hybrid; requires lightning protection.)

²⁰ 2023 NESC, pages 89-90 (underground fiber optic communications cable; does not require lightning protection.)

Council's March 31, 2017 Declaratory Ruling includes overhead transmission line facilities and associated equipment. It does not include underground transmission line facilities and associated equipment. Petition 1566 includes both overhead and underground transmission line facilities and associated equipment. Under Council regulations, associated equipment to an electric transmission line facility, includes, but is not limited to, any structure, pole, line, cable and conductor.²¹

Second, Attachment F to Petition 1566 is an affidavit of service of notice on municipalities and 103 abutting property owners, including Spaulding, by mail or courier, on April 11, 2023.

Third, Attachments A-E and G to Petition 1566 provide site plans and drawings depicting current field conditions along the Eversource ROW.

Finally, Petition 1566 relates to work proposed to be performed by Eversource. It does not relate to work that was previously performed by Eversource.

Staff recommends the Request to Reject the Petition for Failure to Comply with the NEC and/or NESC be denied.

4. Request to Separate Optical Ground Wire Installation (OPGW) and Structure Replacement Work;

Spaulding claims the structure replacements should be separated from the OPGW installation and submitted as a Sub-petition 1293 because the public need and environmental impact for the OPGW has not been established, specifically with respect to its data capacity, size and visual impact.²² Petition 1566 is a petition for a declaratory ruling that the proposed Project would not have a substantial adverse environmental effect and would not constitute a significant change or alteration in the physical characteristics of the existing electric transmission line facility. Public need for the existing electric transmission line facility has been well established for over 70 years.

Spaulding also claims the OPGW may be a telecommunications facility rather than associated equipment to an electric transmission line facility. OPGW co-acts as lightning protection and communications delivery for overhead electric transmission line facilities. OPGW is subject to the updated conductor clearance requirements under the NESC.²³

Associated equipment to an electric transmission line facility includes, but is not limited to, any structure, pole, line, cable and conductor. Under the Eversource easement across Spaulding's property, "electric lines may consist of... supporting structures (which may be substituted one for the other at any time), circuits, cables, wires, ...and other fixtures and appurtenances, any or all of which... may be erected, relocated, replaced, repaired or changed in number, size or type from time to time."²⁴ OPGW and ADSS are associated equipment to an electric transmission line facility whether installed overhead or underground, and installation of both is permitted under the Eversource easement for the existing electric transmission line facility.

The Council's March 31, 2017 Declaratory Ruling in Petition 1293 specifically relates to overhead electric transmission line facilities and associated equipment that are required to comply with the updated NESC conductor clearance requirements. The Council's March 31, 2017 Declaratory Ruling does not relate to

²¹ RCSA §16-50j-2a(1)(B) (2023).

²² Spaulding Request for Dismissal of the Petition for Incompleteness, Exhibit 8.

²³ 2023 NESC pages 89-90.

²⁴ Spaulding Requests for a Public Hearing and Dismissal of the Petition for Incompleteness, Exhibit 3.

underground electric transmission line facilities and associated equipment that are not required to comply with the updated NESC conductor clearance requirements, such as the ADSS installation at the substations.²⁵

Any sub-petition could be submitted as a petition for a declaratory ruling, but not any petition for a declaratory ruling could be submitted as a sub-petition. Combining the overhead asset condition and OPGW-related work activities and the underground ADSS-related work activities into a single petition for a declaratory ruling rather than separating them into a sub-petition and a petition for a declaratory ruling synchronizes timing of the work and minimizes disturbance to the ROW and the property owners that abut it.

Eversource submitted Petition 1566 to the Council for a declaratory ruling that the proposed work associated with the Project, including but not limited to, replacement structure, OPGW and ADSS installation, would not have a substantial adverse environmental effect and would not constitute a significant change or alteration in the general physical characteristics of the existing electric transmission line facilities.²⁶ An example of a significant change or alteration in the general physical characteristics of a facility is an expansion of the size of the facility beyond its boundaries, such as an expansion beyond the boundaries of an existing ROW.²⁷ This is not proposed in Petition 1566, which on April 12, 2023, in its entirety, was appropriately submitted to the Council as a complete petition for a declaratory ruling under CGS §4-176 and §16-50k.

Staff recommends the Request to Separate OPGW Installation and Structure Replacement Work be denied.

5. Request for Dismissal of the Petition for Incompleteness;

Spaulding claims Petition 1566 must comply with Regulations of Connecticut State Agencies (RCSA) §16-50j-59. This section of the Council's regulations describes the information required to be submitted in applications for Certificates of Environmental Compatibility and Public Need (Certificate) for new facilities and applications for amendments to Certificates for approved facilities prior to Council approval of a Development and Management Plan that is *in addition to* the information required to be submitted under CGS §16-50l. Petition 1566 was not submitted to the Council as an application for a Certificate or as an amendment to a Certificate to which CGS §16-50l and RCSA §16-50j-59 would apply.

Petition 1566 was submitted to the Council as a petition for a declaratory ruling that a Certificate is not required to upgrade the existing electric transmission line facilities to which CGS §4-176 and §16-50k and RCSA §16-50j-38 to §16-50j-40 apply. Under these statutes and regulations, any person may request a declaratory ruling with respect to the applicability of any statute or the validity of any regulation, final decision or order by the Council. Eversource submitted Petition 1566 to the Council for a declaratory ruling that neither a Certificate nor an amendment to a Certificate is required for the proposed Project because it would not have a substantial adverse environmental effect and it would not constitute a significant change or alteration in the general physical characteristics of the existing electric transmission line facilities.

In support of the claim of incompleteness, on page 4 of the Request, Spaulding states, "See attachments 1 and 1a for a partial list of environmental effects of the *proposed facility*. *Past work* is incorporated into the work proposed in petition 1566." (Emphasis added). The facility is not proposed; it is an *existing electric transmission line facility*. Petition 1566 does not encompass past work; it encompasses *proposed work*.

²⁵ There are also 6 structure replacements driven by OPGW installation rather than asset condition.

²⁶ RCSA §16-50j-2a(15) (2023) (Modification means a significant change or alteration in the general physical characteristics of a facility, including, but not limited to, design, capacity, process or operation that the Council deems significant.)

²⁷ Petition 811, Decision, available at https://portal.ct.gov/-/media/CSC/3_Petitions-MediaLibrary/Petitions_MediaLibrary/MediaPetitionNos0001-1100/PE811-20080104-dc121407_a.pdf

Also on page 4 of the Request, Spaulding claims Eversource fails to mention an alternate access to Structures 7784 and 7785. However, Petition 1566 states at page 23, "...some access roads are already established and Eversource will utilize these access roads to the extent possible."²⁸ There is an established in-ROW access to Structures 7784 and 7785.²⁹ The alternate access referenced by Spaulding throughout the 6 requests as the "Old Mill Road" is located on Spaulding-owned property to the west of the Eversource ROW.³⁰ It was not identified as a proposed off-ROW alternate access in Sub-petition 1293-LFBNM-01 and it is not identified as a proposed off-ROW alternate access in Petition 1566.

Petition 1566 was properly submitted to the Council in complete form under CGS §4-176 and §16-50k.

Staff recommends the Request for Dismissal of the Petition for Incompleteness be denied.

6. Request for a Public Hearing.

In the Request for a Public Hearing, among other items, Spaulding seeks compensation and money damages from Eversource for work in the ROW that occurred *prior to* Spaulding's ownership of the servient parcel.³¹ Notwithstanding, in response to the Council's July 30, 2021 request, Eversource developed a Mitigation/Remediation Plan for the ROW in the area of Structures 7784 to 7786. It is referenced throughout Spaulding's 6 requests.³²

Spaulding also claims property damage was caused by Eversource not using the Spaulding-owned, off-ROW "Old Mill Road" for the past work. However, use of any *off-ROW* access road is only available to Eversource if easement/access rights could be acquired at a fair market value. Use of *in-ROW* access roads is always available to Eversource because easement/access rights have already been acquired.

Spaulding's concerns that are relevant to Petition 1566 about wetlands, erosion, invasive species, construction methods and restoration within the Eversource ROW are addressed in the Petition. For example, Eversource would develop a Stormwater Pollution Control Plan specific to the Project under a Department of Energy and Environmental Protection (DEEP) General Permit for the Discharge of Stormwater and Dewatering Wastewaters from Construction Activities (General Permit).³³

Petition 1566 was submitted to the Council on April 12, 2023. On May 11, 2023, pursuant to the 60-day action deadline under CGS §4-176(e), the Council set the date by which to render a decision on the petition for a declaratory ruling as October 9, 2023. It did not vote to hold a public hearing on the matter. On May 23, 2023, the Council issued interrogatories to Eversource. On June 9, 2023, Eversource responded to the Council's interrogatories. Further information on any topic that is relevant to P1566 could be obtained through written interrogatories and the schedule allows for additional interrogatories among the parties.

²⁸ See FERC Report on Transmission Facility Outages during the Northeast Snowstorm of October 29-30, 2011, *available at* https://www.nerc.com/pa/rrm/ea/October%202011%20Northeast%20Snow%20Storm%20Event/NE_Outage_Report-05-31-12.pdf (FERC and NERC determined that 50% of transmission outages in the New England Region occurred in Connecticut. ***One damaged Connecticut electric transmission line was out of service for 8 days due to difficulty of access.***)

²⁹ Petition 1566, Map Sheet 6 depicts the existing access and use of existing gravel work pads at Structures 7784 to 7786.

³⁰ Spaulding Request for Party and CEPA Intervenor Status at page 10.

³¹ Spaulding Request for a Public Hearing at page 2; See *Civie v. Conn. Siting Council*, 157 Conn. App. 818 (2015) (claim for loss of economic value of timber cleared from Eversource ROW denied because activity is authorized by the easement).

³² The Plan is dated April 13, 2023 and it would logically be implemented after Petition 1566 work in the ROW is complete.

³³ Petition 1566 at page 11; DEEP could hold a public hearing on any General Permit application.

The Request for Public Hearing is moot as it was submitted after the Council's 60-day action under CGS §4-176(e), and staff recommends the Request for Public Hearing be denied.

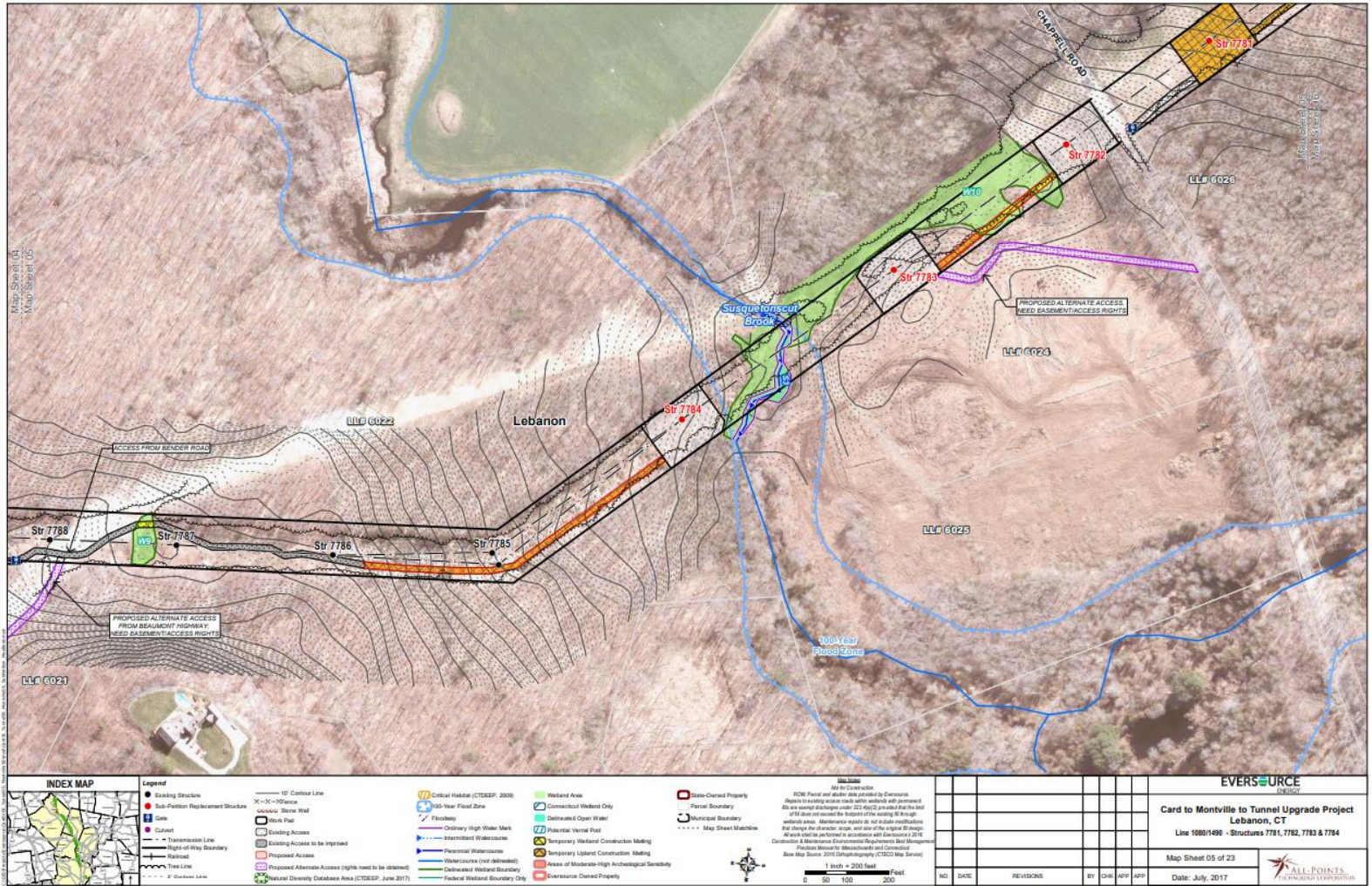
IV. Conclusion

In Petition 1325, the Birchwood Condominium Association (BCA) submitted a multi-part objection to an Eversource project related to an existing electric transmission line facility. BCA claimed the Eversource project would be a health and safety hazard, cause a substantial adverse environmental effect due to grading and tree removal, deny the owners use of the property, disfigure the landscape, create a nuisance and overburden the easement. The Council overruled the objection in Petition 1325, but granted BCA party status to submit written interrogatories to Eversource for further explanation and clarification on concerns jurisdictional to the Council.³⁴

In Petition 1566, Spaulding submitted a multi-part objection to an Eversource project related to an existing electric transmission line facility. Spaulding claims the Eversource project that was *completed* prior to Spaulding's acquisition of the servient parcel to the ROW violated the easement, constituted a taking, committed trespass, and abrogated agricultural and other property owner rights. Similar to Petition 1325, as a party and CEPA Intervenor to Petition 1566, an Eversource project that is *proposed*, Spaulding may submit written interrogatories to Eversource for further explanation and clarification on concerns jurisdictional to the Council.

³⁴ The Council noted that although it does not have jurisdiction over nuisance or easement overburdening claims, it is quite possible, depending on the language of the easement, Eversource may have its own claims relative to BCA use of its ROW.

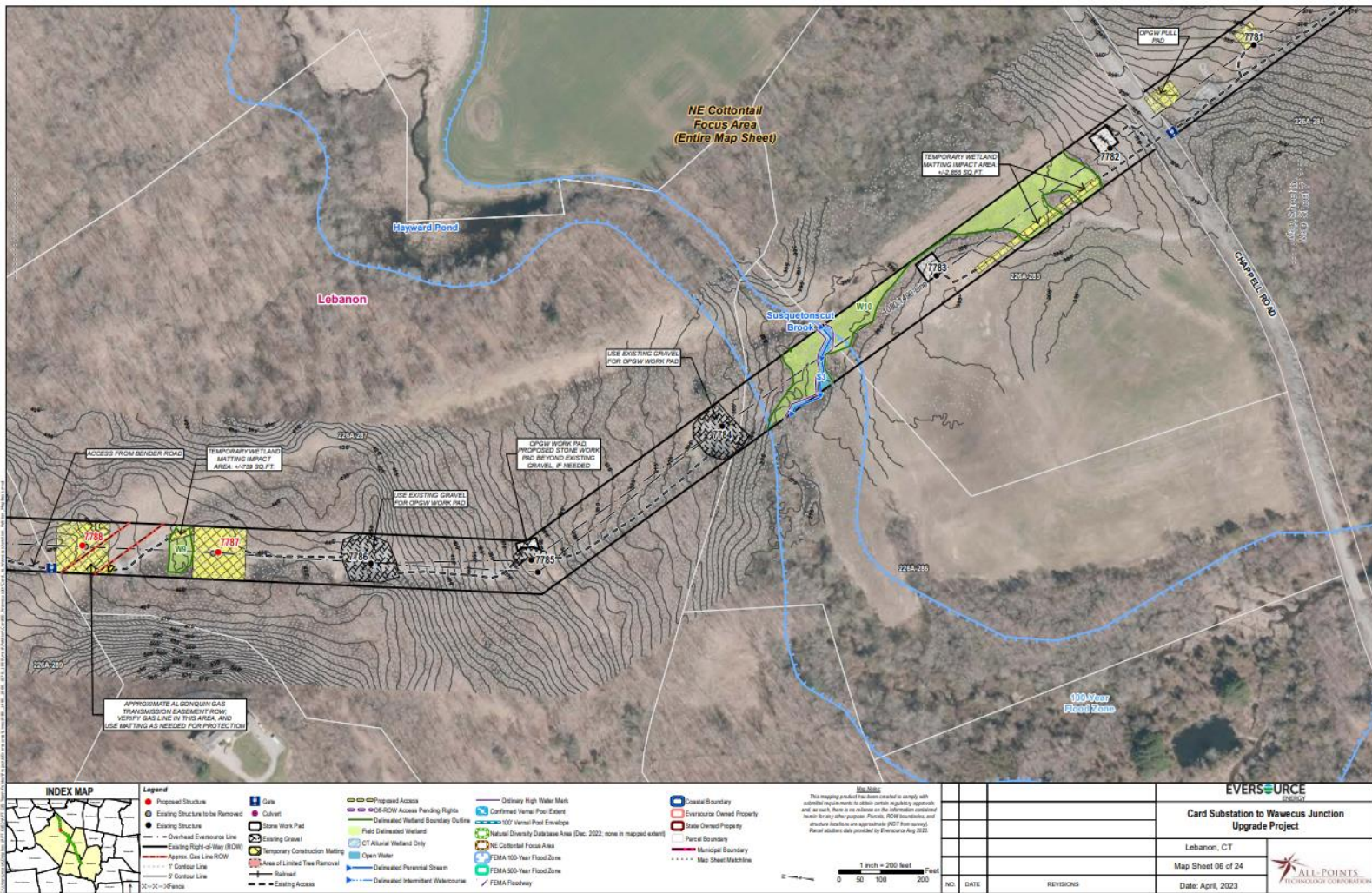
Figure 1 - Map Sheet 5 of Sub-petition 1293-LFBNM-01



LL NUMBER	PARCEL ADDRESS STREET	PARCEL CITY	PARCEL ZIP	OWNER NAME
6021	618 Beaumont Highway	Lebanon	06249	Smith Beaumont Properties LLC
6022	Beaumont Highway	Lebanon	06249	Jackson W & Patricia C Davis
6024	Chappell Road	Lebanon	06249	Green Gate LLC
6025	Chappell Road	Lebanon	06249	Green Gate LLC
6026	49 Chappell Road	Lebanon	06249	Green Gate LLC

Map Sheet 05 of 23
 1080 Line
 Transmission Line Maintenance
 Card Street to Montville
 Abutters List

Figure 2 - Map Sheet 6 of Petition 1566



MAP SHEET 6 OF 24
Card Substation to Wawecus Junction Upgrade Project
Town of Lebanon, Connecticut

LLN	Parcel Address	City	State	Owner
226A-284	49 CHAPPELL RD	LEBANON	CT	GREEN GATE LLC
226A-285	CHAPPELL RD	LEBANON	CT	GREEN GATE LLC
226A-286	CHAPPELL RD	LEBANON	CT	GREEN GATE LLC
226A-287	BEAUMONT HWY	LEBANON	CT	CORY R SPAULDING AND LESLIE A YEISLEY
226A-289	618 BEAUMONT HWY	LEBANON	CT	SMITH BEAUMONT PROPERTIES LLC

Exhibit 1



**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

June 9, 2023

Cory Spaulding & Leslie Yeisley
716 Beaumont Highway
Lebanon, CT 06249
coryspaulding@earthlink.net

RE: Freedom of Information Act Request, dated June 2, 2023

PETITION NO. 1566 - The Connecticut Light and Power Company d/b/a Eversource Energy petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed Card Substation to Wawecus Junction Upgrade Project consisting of the replacement of electric transmission line structures along its existing 12.5-mile electric transmission right-of-way shared by its existing 115-kilovolt (kV) Nos. 1080/1490 and 1080/1070 Lines between Card Substation in Lebanon, Stockhouse Road Substation in Bozrah and Wawecus Junction in Norwich, Connecticut traversing the municipalities of Lebanon, Franklin, Bozrah and Norwich, and related electric transmission line and substation improvements.

Dear Cory Spaulding and Leslie Yeisley:

In response to your Freedom of Information Act request, dated June 1, 2023, the Connecticut Siting Council (Council) reviewed its records for "any notification or exempt notifications sent to the Council by Eversource in reference to work performed," for Eversource electric transmission line Structure Nos. 7785 and 7786 located in Lebanon, Connecticut.

Please be advised that the Council does not have any records that are responsive to this request.

Should you have any questions or require additional information, please feel free to contact me at your convenience.

Sincerely,

A handwritten signature in black ink, appearing to read "Melanie A. Bachman".

Melanie A. Bachman
Executive Director

MAB/laf

c: Council Members

From: Cory Spaulding <coryspaulding@earthlink.net>
Sent: Thursday, June 1, 2023 3:44 PM
To: Bachman, Melanie <Melanie.Bachman@ct.gov>
Cc: CSC-DL Siting Council <Siting.Council@ct.gov>
Subject: Request for documents for Eversource work at sites 7785 and 7786.

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Connecticut Siting Council,

Melanie Bachman,

Good afternoon Ms. Bachman,

Eversource conducted work on my property without approval from the Siting Council at sites 7786 and 7785. This work was believed to have been done in 2021. On September 7, 2021 you advised me that the work at site 7785 was not under Council jurisdiction because it did not require an increase in height, please see the attached letter.

In reviewing the regulations, I am assuming that you were referencing The Regulations of Connecticut State Agencies — RCSA § 16-50j-57(b) and also referencing the April 13, 2013 document produced by the Siting Council titled Modification of Existing Energy Facilities when you determined that this work was not under Council jurisdiction. In the April 13, 2013, memo, the Council references the required Council notification process detailed in 16-50j-58.

As noted in previous documents and exhibits sent to the Council, I have described the work Eversource performed at sites 7786 and 7785 as illegal and I maintain the work required permits from the Council because site 7785 was not a one for one replacement and both sites had a significant adverse change or alteration in the physical or environmental characteristics of the site. This information is detailed extensively in previous documents sent so I will not document this further here today. I would like to request from the Council copies of any notification or exempt notifications sent to the Council by Eversource in reference to work performed at these two sites. If you need additional information to complete this request, please let me know what is needed. If this request needs to be an FOI request then please consider this e mail to be such.

It is my intention to request for the June 12, 2023 Council meeting that the Council conduct an investigation into if permits were required for this work as I believe is allowed under 16-50j-41 – Council Investigations, but would like a copy of any documents Eversource may have filed prior to me filing this request. This previous work is directly related to petition 1566 in that the present petition proposes to utilize the illegal work, roads, and pads that were installed at these location.

Could you please tell me the cut-off date for adding items to the agenda for this meeting if in fact it would be acceptable to add this request to the others previously filed?

Sincerely Cory Spaulding and Leslie Yeisley

Exhibit 2



**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

July 30, 2021

Kathleen M. Shanley
Manager – Transmission Siting
Eversource Energy
P.O. Box 270
Hartford, CT 06141

RE: SUB-PETITION NO. 1293-LFBNM-01 (Lebanon, Franklin, Bozrah, Norwich Montville) –
Eversource Energy declaratory ruling that no Certificate of Environmental Compatibility and Public
Need is required for all transmission facility asset condition maintenance improvements statewide to
comply with the updated National Electrical Safety Code clearance requirements.

Dear Ms. Shanley:

The Connecticut Siting Council (Council) is in receipt of email correspondence, dated July 28, 2021, from Cory Spaulding of Beaumont Highway Lebanon (LL Number 6602) regarding construction work within the electric transmission line right-of-way on his property in the area of Structure 7785 (Map 5) associated with the above-referenced sub-petition.

The Council approved the sub-petition on August 16, 2017. Eversource notified the Council that construction of the project was completed on May 17, 2019.

On March 18, 2018 the Council approved a project modification to relocate an access road between Structures 7804 and 7805. On April 26, 2018, the Council approved a project modification to relocate an access road and work pad changes for Structures 6339 and 7655. No other project modification requests were received.

In his correspondence, Mr. Spaulding states that his property has been damaged in the area of Structure 7785. Although replacement of this structure was not part of the referenced sub-petition, a temporary access road extending along a steep slope from Structure 7786 to Structure 7784 was specified to provide access for the replacement of Structure 7784. It appears that instead of a temporary matting access road as specified in the sub-petition, a gravel access road was constructed on the steep slope to access Structure 7784.

Pursuant to the Council's Petition No. 1293 Declaratory Ruling of March 31, 2017 and the Council's August 16, 2017 decision on this sub-petition, the Council requests information regarding the type of access road that was installed to facilitate construction on Structure 7784 and the current condition of the access road from Structures 7786 to 7784, including, but not limited to, drainage issues and any extensive grading performed to install the road. Furthermore, since the gravel access road was installed without the Council's approval, provide a plan to mitigate environmental impacts caused by the installation of the road.

Please submit the requested information and written response to the Council by August 27, 2021.

Thank you for your attention and cooperation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Melanie Bachman'.

Melanie Bachman
Executive Director

c: Cory Spaulding, 716 Beaumont Highway, Lebanon, CT 06249 (coryspaulding@earthlink.net)

From: Cory Spaulding <coryspaulding@earthlink.net>
Sent: Wednesday, July 28, 2021 7:11:10 PM
To: Bachman, Melanie <Melanie.Bachman@ct.gov>
Subject: Eversource sub petition for replacement of structure STR 7885

EXTERNAL EMAIL: This email originated from outside of the organization. Do not click any links or open any attachments unless you trust the sender and know the content is safe.

Melanie Bachman,

I have also sent this e mail to siting.council@ct.gov. I was unsure to whom I should address this question.

I am looking for the Eversource sub petition for the replacement of structure str 7785 located in Lebanon Connecticut. The structure is located between Chappell Road and Bender Road in Lebanon CT. It is located on property now owned by Cory Spaulding and Leslie Yeisley. The former owner is Jackson W and Patricia C Davis.

I have pasted a screen shot of the pole from project PE 1293 lfbnm-01 (pdf page 26) which replaced pole str 7784. I have checked all the Lebanon filings twice and cannot locate the petition for this pole replacement. I is a corner pole and is labeled on this map below.

I am having problems with Eversource being un-responsive to damage they did to my property and would like to see the specifications for what Eversource stated that they were going to do when they replaced these poles.

Sincerely, Cory Spaulding

I can be reached by phone at 352 263 9226 if you have any questions.

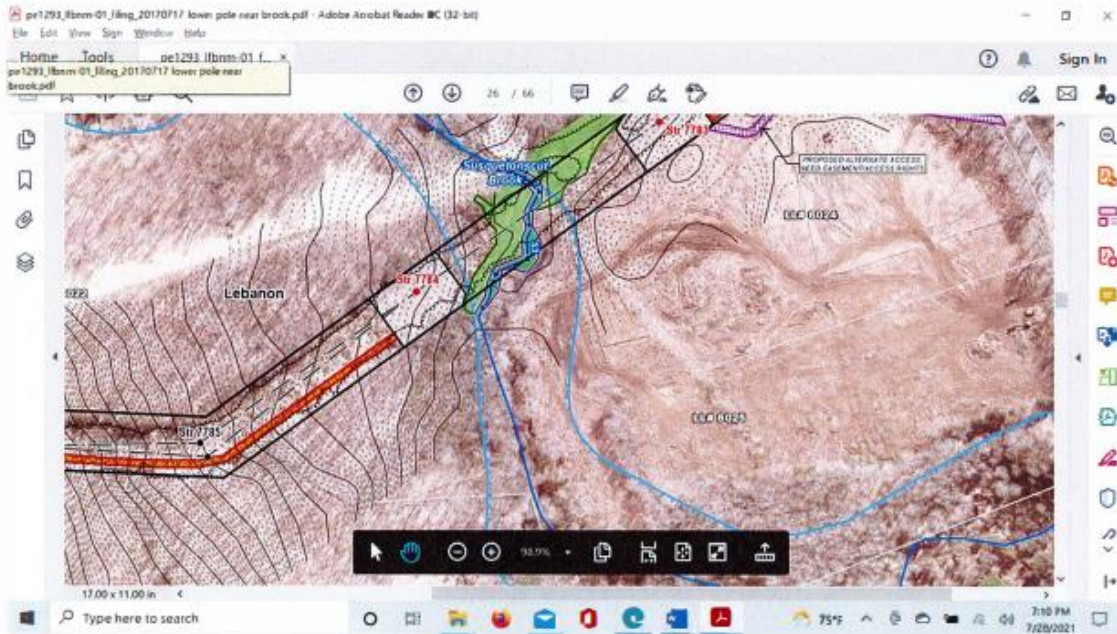


Exhibit 3



56 Prospect Street
P.O. Box 270
Hartford, CT 06141-0270

Kathleen M. Shanley
Manager – Transmission Siting
Tel: 860-728-4527

August 24, 2021

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

RE: SUB-PETITION NO.1293-LFBNM-01 (Lebanon, Franklin, Bozrah, Norwich, Montville) – Eversource Energy declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for all transmission facility asset condition maintenance improvement statewide to comply with the National Electric Safety Code.

Dear Ms. Bachman:

I am in receipt of your letter, dated July 30, 2021, requesting information with respect to the type of access road installed by Eversource Energy ("Eversource"), relative to the subject Sub-Petition, to facilitate access to Structure 7784 and the current condition of the access road from Structure 7786 to Structure 7784 including, but not limited to, drainage issues and extensive grading and a plan to mitigate impacts caused by installation of the road.

At this time, I can confirm that the type of access road that was installed at this location was a gravel road and not a matted road as depicted on the approved plans. As you have indicated, the Connecticut Siting Council ("Council") approved two requests for project changes that included changes to access roads, but none at this location. The Siting Analyst assigned to this project mistakenly thought that material changes to access road construction in upland areas was not jurisdictional to the Council as long as the road remained in the same alignment and Eversource apologizes for this oversight.

With respect to the current property owner's concerns about the location and drainage issues, all original drainage features installed during the road's initial construction have been re-established. Vegetation debris left in the right-of way has also been removed. Regarding the other concerns raised by Mr. Spaulding, Eversource Field Outreach Representatives have made outreach to Mr. Spaulding to schedule a site visit with him to review his clearance questions and restoration requests but have not received a response to date. Eversource remains committed to working with Mr. Spaulding and responding to any questions or concerns that he may have.



56 Prospect Street
P.O. Box 270
Hartford, CT 06141-0270

Kathleen M. Shanley
Manager – Transmission Siting
Tel: 860-728-4527

Should you or other Council members have any questions regarding this submission, please do not hesitate to contact me via e-mail at kathleen.shanley@eversource.com or telephone at (860) 728-4527.

Sincerely,

A handwritten signature in blue ink, appearing to read "Kathleen M. Shanley", written over a light blue horizontal line.

Kathleen M. Shanley

c: Cory Spaulding, 716 Beaumont Highway, Lebanon, CT 06249 (coryspaulding@earthlink.net)

Exhibit 4



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

www.ct.gov/csc

VIA ELECTRONIC MAIL

September 7, 2021

Cory Spaulding
716 Beaumont Highway
Lebanon, CT 06249
coryspaulding@earthlink.net

RE: SUB-PETITION NO. 1293-LFBNM-01 (Lebanon, Franklin, Bozrah, Norwich Montville) – Eversource Energy declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for all transmission facility asset condition maintenance improvements to comply with the updated National Electrical Safety Code clearance requirements.

Dear Mr. Spaulding:

The Connecticut Siting Council (Council) is in receipt of your additional correspondence dated September 7, 2021 concerning Eversource Energy's (Eversource) above-referenced request for approval to conduct transmission line maintenance activities to comply with the updated National Electrical Safety Code (NESC) standards on an existing electric transmission line that traverses the municipalities of Lebanon, Franklin, Bozrah, Norwich and Montville. A decision to approve the requested maintenance improvements was rendered on August 16, 2017.

In reaching a final decision on a petition, the Council carefully considers whether the request to conduct maintenance improvements complies with the NESC standards. Please be advised that the Council developed a deliberate case-by-case process for the review and evaluation of Eversource transmission facility asset condition maintenance improvement requests to replace individual, existing electric transmission line structures throughout the state that are exhibiting deterioration due to cracking, splitting, rot, woodpecker damage, etc. to comply with updated NESC standards.

With reference to Structure No. 7785, structure replacements that require an increase in height to comply with NESC conductor clearance requirements are subject to the Council's jurisdiction. Structure replacements that do not require an increase in height to comply with the NESC are not subject to the Council's jurisdiction. Replacement of Structure No. 7785 did not require an increase in height. It is not subject to the Council's jurisdiction.

With reference to the access road, on your behalf, the Council sent a request to Eversource for information and plans on July 30, 2021. Eversource responded to the Council's request on August 24, 2021. In addition to addressing the re-establishment of the original drainage features along the access road, Eversource indicated it made outreach to schedule a site visit on your property to respond to any remaining questions and concerns you may have. To the Council's knowledge to date, this site visit has not occurred.



With reference to the Eversource right-of-way across the subject property, please be advised that the Council does not have the authority to interpret and/or enforce easements nor does it have the authority to negotiate, interpret or enforce any third party agreements. If you believe that Eversource is violating the easement they have across your property or that Eversource is violating an agreement they may have entered into with the previous owner of the property, contact an attorney.

Thank you.

Sincerely,

A handwritten signature in cursive script, appearing to read "Melanie A. Bachman".

Melanie A. Bachman
Executive Director

MAB/lm

c: Kathleen Shanley, Eversource Energy

Mathews, Lisa A

From: Cory Spaulding <coryspaulding@earthlink.net>
Sent: Tuesday, September 7, 2021 8:50 AM
To: Bachman, Melanie; Fontaine, Lisa; CSC-DL Siting Council
Cc: Shanley, Kathleen M
Subject: Work performed by Eversource under PE 1293 on land LL 6022 - Cory Spaulding - Lebanon CT
Attachments: Photo 1 Washout with subsoil steep hill 7785 2 mb.jpg; Photo 2 Washout lower area with photo of 7785 2 mb.jpg; Photo 6 Left side washout between 7785 and 7786 2 mb.jpg; Photo 3 7785 to 7784 upper steep slope wash out 2 mb.jpg; Photo 4 Washout lower part steep slope 7785 to 7784 2 mb.jpg; Photo 5 7785 side view slope failure 2 mb.jpg

Ms. Bachman,

Thank you for your most recent update.

Eversource in their August 24, 2021 letter to the Council stated that they had reestablished unspecified original drainage features and removed vegetation left in the right of way. This list by Eversource is nothing more than a word game to try to imply to the Council that these are all the issues involved and Eversource has fixed them. I can assure you this attempt by Eversource to minimize the damages and environmental issues falls far short of the items that need to be addressed.

How do you identify what needs to be fixed when you have no plans for what was done?

To give you an example of what gets discovered in this ongoing investigation, last week while inspecting the ongoing erosion issue that will be described below, I discovered three stone walls that protrude from the edge of the areas that Eversource has filled in. These areas were covered up by heavy vegetation and debris deposited by Eversource. Eversource buried three stone walls and failed to re-establish them. I also noted that these walls were conveniently NOT depicted on the Eversource submitted plans for site 7784.

How do you identify what needs to be fixed when you have no accurate plans for what previously existed?

In reference to the drainage features discussed by Eversource. As detailed in the attached photos 1, 2, and 6 taken September 2, 2021, the steep incline road built by Eversource between sites 7785 and 7786 has again washed out. The unspecified reinstalled drainage features have failed again. These window dressing features are nothing more than a band aid that Eversource has put on a severed artery.

Photos 3 and 4 depict the large filled in area and slope created by Eversource in the work done for sites 7785 and 7784. This 70 foot long Eversource road which traverses on a steep slope that did not previously exist has NO erosion protection measures installed. The road has washed out again.

Photo 5 depicts a side view of the easterly side of the fill area created by Eversource at site 7785 which is part of the road for site 7784. This area is exhibiting signs of slope failure. The top of the slope is sluffing off which indicates that the entire area filled by Eversource is sliding down the hill. When this type of failure happens it is usually caused by filling areas on steep slopes without proper compaction and without installing the proper engineering keys to prevent the slope from sliding down the hill. You have massive amounts of material placed on bedrock on a steep slope. This is a sure-fire recipe for the entire filled area to slide down the slope carrying with it with the power transmission lines and poles installed upon it.

Since Eversource did not submit a sub petition to the Council for the significant modifications done at this site, no engineering is available to review to see how this massive topographical change done by Eversource was actual constructed.

This is not an all-inclusive list of the issue, just a sampling.

In summary, the Council leaving Eversource to police themselves and "reach out to Mr. Spaulding" has resulted in no progress, more damages, and no answers to many questions. The ongoing erosion continues on and the Susquetonscut Brook which is at the base of this steep incline continues to fill up with sediment.

I would again like to ask for an explanation from the Council as to why Eversource is not required to apply to the Siting Council for work done at site 7785 considering that the work at this site involved

- * replacing 6 poles where 4 poles previously existed
- * realignment of a road that was not initially authorized, did not previously exist, and was supposed to be wetland mats
- * work that involved permanently installed features that are presently exceeding the right of way
- * work that involved the cutting down of mature trees
- * work that involved a 30 foot cut made into a steep embankment coupled with the admitted 400 tons of fill brought in that resulted in the extensive topography changes that are now unstable and eroding with every rain event.

The work done at site 7785 certainly meets the definition of modification which is significant change or alteration of the general physical characteristics and should have required a review by the Council of the planned work to see if it posed a significant environmental impact.

Presently at site 7785 we have extensive alternations to the physical characteristics, no sub permit application filed, no explanation as to why the work was done, no design specifications for what was done, ongoing environmental issues, and no environmental review by the Council.

We DO have the luxury of knowing that we DO have environmental issues and we DO have significant alternation to the general physical characteristics.

- * 16-50i. Definitions. As used in this chapter:
- * (d) "Modification" means a significant change or alteration in the general physical characteristics of a facility;

Let me be clear, Eversource's most recently assignment of a THIRD sub contract outreach representative who cannot answer any questions and has no authority to make any decisions is not a course to resolution.

Last week this THIRD outreach representative promised, as the previous two had also promised, to obtain a copy of the Eversource right of way to the property and a copy of the plans for all the work done on this property. The first two representatives did not produce the documents and I do not believe this one will either. I suspect that Eversource did the work at site 7785 without the necessary engineering and without any specific plans. I recently saw a new survey stake at this site so I suspect that Eversource by now has figured out that they have exceeded their right of way. Eversource now wants to cover this all up by sending the Council a letter attempting to minimize the problems and stating that they have fixed everything. The photo's do not lie, the problems are not fixed.

How does forward progress or a plan of resolution happen when no one has any specifications for what was done?

I would like to explain to you the irony of this entire matter. Eversource said in sub petition PE 1293 lfbnm that they were going to access site 7784 via wetland matts which would produce minimal ground disturbance. Instead, they built

a road that has produced significant changes to the physical characteristics of this AGRICULTURAL classified land. If Eversource had simply been truthful about their intentions and allowed the proper reviews and notifications to be done perhaps someone would have realized that sites 7784 and 7785 already have door to door DIRECT access to Beaumont Highway via an existing abandoned town road known as the Old Mill Road. Access to these sites already existed and their was no need to build a new road.

The environmental mess that Eversource has now created to this AGRICULTURAL LAND was totally unnecessary.

In closing, I would like to know the status of a couple outstanding items.

- * Does the Council plan on letting Eversource police themselves in these matters?
- * Does the Council plan on requiring Eversource to submit plans and a sub petition application for site 7785 so the as built specifications can be obtained and a proper environmental review by the Council can be done?
- * Is the Council going to require Eversource to submit the "plan to mitigate the environmental impacts caused by the installation of the road" that the Council requested Eversource to submit to the Council in the July 30, 2021, letter?
- * Is the Council going to reopen sub petition PE 1293 lfbnm and perform the required environmental review now that the Council has knowledge that the plans and specifications submitted by Eversource were not followed and that significant environmental issues exist with the work performed?

Sincerely,

Cory Spaulding

Exhibit 5

From: Krista Sakallaris <Krista.Sakallaris@ferc.gov>
Sent: Thursday, September 2, 2021 11:42 AM
To: Cory Spaulding <coryspaulding@earthlink.net>
Cc: Bachman, Melanie <Melanie.Bachman@ct.gov>
Subject: RE: Question about site work

Thank you for the additional information Mr. Spaulding.

I have reached out to some of the attorneys in my office with a little more background in this area and learned that this is almost certainly a state issue. FERC's siting authority for transmission lines is very limited. This site has a pretty good summary of the law in its first two boxes. Basically, the project has to be in a National Interest Electric Transmission corridor (this is designated by the Department of Energy and to the best of my knowledge, there aren't any currently designated) as well as the state having no siting authority. <https://openei.org/wiki/RAPID/BulkTransmission/Connecticut/Transmission>

For this particular issue, it looks like the Connecticut Siting Council has siting authority for 69kv or greater lines. It's not clear to me if that only applies to new construction or if it also applies to maintenance projects. If the Council has indicated they do not have jurisdiction, then it's a state property law issue and the best thing you can do is to speak with a property lawyer familiar specifically with Connecticut's laws.

Ms. Bachman, I would like to be as helpful as I can, so if you have information as to why the Council believes this falls under FERC's jurisdiction can you please share it with me so I can track down the best office and staff to assist Mr. Spaulding?

Krista

From: Cory Spaulding <coryspaulding@earthlink.net>
Sent: Thursday, September 02, 2021 11:08 AM
To: Krista Sakallaris <Krista.Sakallaris@ferc.gov>
Cc: Bachman, Melanie <Melanie.Bachman@ct.gov>
Subject: RE: Question about site work

Krista, Sakallaris,

Ironically your question as to who to contact or who is in charge is part of the problem. Eversource continues to assign me to a subcontract outreach representative who has no authority to do anything and cannot answer any questions. I am currently on my third outreach representative. It is the usual continuous circle run around where you never get to talk to anyone that can make a decision or answer a question. Designed failure by Eversource.

I do not dispute that Eversource has the right to put up poles and power lines on my property. I do dispute that the company has the right to put roads thru my agricultural land and radically change the topography and drainage by bringing in thousands of tons of fill to build roads, work pads, and staging areas, then leave them for me to deal with.

I am an innocent landowner that they think they can ignore, stall, and push around. They have completed their pole replacement and I now simply want them to restore the land to the condition that it was prior to them undertaking this massive project yet for months now have gotten no where so I decided to go back to square one, where are the plans for what they were supposed to do?

Eversource has refused to provide me with their version of their right of way easement. Mine shows they are 54 feet outside the easement. I have not seen any design plans for the work so I cannot even tell if they did the work according to the plans.

As a result of the inaction by Eversource I have turned to regulatory agencies. Eversource submitted one pole replacement site project to the Connecticut Siting Council and I obtained those design plans and determined that Eversource said they were going to lay down wetland mats to access the area but instead built roads. The Siting Council instructed Eversource to submit corrected plans and to date Eversource wrote a letter saying they were sorry for the mistake. No other action has been taken by the Council or Eversource. Am I to understand that Eversource is so brazen that they can submit plans, not follow the plans, and oh well we are sorry is the conclusion?

I have inquired with the Siting Council as to why Eversource was not required to submit petitions for all pole replacements on my property and have not received an answer back.

Ms. Bachman, Acting Chairman for the Siting Council has stated previously that the Council does not have jurisdiction for all work but FERC does, hence my writing to you.

I have copied Ms. Bachman on this e mail and perhaps the two regulatory agencies can communicate to determine who holds Eversource accountable for the damage to my land. I would appreciate being copied on any correspondence.

Congress and the State of Connecticut have attempted to provide the landowner with relief from being run over by Utility Companies by creating agencies to regulate their activity and hold them accountable for following the law. My questions are which agencies are supposed to do this?

It appears to me that Eversource is playing the game of playing the enforcement agencies off of each other.

Eversource is doing a massive pole replacement program due to deteriorated wooden poles. They apply to the Siting Council for a certification of no environmental impact for this project and the Siting Council requires Eversource to submit sub petitions for each location so that individual determinations of no environmental impact can be made by the Council. Eversource then hand picks the sites they wish to submit to the Council and I guess claims maintenance under FERC for the sites that they do not submit?? The Council in their determination specifically addresses this Eversource project as a "*maintenance project*" so I am baffled as to why each site is not required to go to the Council and for the life of me cannot determine what excuse Eversource could come up with as to why they did not submit all the pole replacement maintenance projects to the Council for review. Each pole project involves the potential for serious environmental damage due to the method that Eversource is utilizing to do the replacements meaning building new roads, changing the topography and drainage of the land and by building massive of 100x100 level platforms around each pole site in order to do the replacement. In my case, at one site Eversource replaced 4 poles with 6 poles on a steep hillside. Eversource cut 35 to 40 feet by 125 feet into the hillside of my land to build this platform. They then hauled in an additional estimated 500 ton of fill to create the access road and the rest of the platform. They replaced the poles and walked away leaving a huge mess and appear to have not applied for a permit to anyone to do the work? I asked Ms. Bachman in an e mail yesterday why this site did not require a petition to the Council and I assume she is looking into that question.

In summary Eversource asks the Council for a certificate of no environmental impact statewide for the one for one replacement of deteriorated assets. See attached Petition 1293. The Council instructs Eversource to submit sub petitions for all replacements and Eversource then picks and chooses which ones to submit to the Council. ALL REPLACEMENTS ARE THE SAME. REPLACING AGING POLES TO IMPROVE ASSET CONDITIONS FOR IMPROVING ELECTRIC RELIABILITY AND CODE COMPLIANCE.

What criteria is there for which replacement projects go to the Council and which ones do not?

Do the other projects go to FERC or do they go to no one? Who reviews the ones they do not submit to the Council?

To me the most important question that I have is, is Eversource accountable for their actions to anyone?

Sincerely,

Cory Spaulding
716 Beaumont Highway
Lebanon, CT. 06249
352 263 9226

-----Original Message-----

From: Krista Sakallaris <Krista.Sakallaris@ferc.gov>

Sent: Sep 1, 2021 2:02 PM

To: Cory Spaulding <coryspaulding@earthlink.net>

Subject: RE: Question about site work

Hello Mr. Spaulding,

I have to check with our Office of Energy Projects to determine if this project falls under the Commission's jurisdiction and then gather some information for you. I will be in touch as soon as possible.

Do you happen to have the contact information for either the land agent or the project manager with Eversource Energy?

Thank you,
Krista R. Sakallaris

Dispute Resolution Service
Office of the General Counsel
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
Tel: (202) 502-6302

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From: Cory Spaulding <coryspaulding@earthlink.net>

Sent: Wednesday, September 01, 2021 1:18 PM

To: Landowner Help <LandownerHelp@ferc.gov>

Subject: Question about site work

Eversource Energy has a right of way thru my property in Connecticut and this year replaced 4 deteriorated wooden poles with 6 steel poles. In doing so they changed the entire topography of the land and exceeded their right of way. Eversource has not been responsive to my concerns about the issues. I am attempting to determine who holds them accountable when issues like this arise. I am unsure of the reason for the replacement meaning maintenance, or compliance with code. Eversource did not apply to the Connecticut Siting Council for a permit despite a change in the facility configuration meaning 4 to 6 poles. I am in search of plans and specifications of what Eversource was supposed to do in this pole replacement project and with whom if anyone they were required to obtain permits from. The poles have these identification number LN 1080, LN 1490, ST 7785, ST 7785A. The location is in the woods and the line runs in-between Chappell Road and Bender Road in Lebanon CT. Could you tell me if your agency requires permits for this work and if Eversource obtained permits for this work?

Sincerely,

Cory Spaulding
716 Beaumont Highway
Lebanon, CT. 06249
352 263 9226



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

CONNECTICUT SITING COUNCIL INFORMATION GUIDE TO PARTY AND INTERVENOR STATUS IN A PETITION FOR A DECLARATORY RULING WITHOUT A PUBLIC HEARING

The Connecticut Siting Council (Council) will name or admit as a **party** any person whose legal rights, duties or privileges will be specifically affected by the Council's decision in a petition for a declaratory ruling (petition).

The Council will name or admit as an **intervenor** any person whose participation is in the interests of justice and will not impair the orderly conduct of the petition process.

Service List and Service Requirements

Once a person is named or admitted as a party or intervenor, they will be added to the "Service List," which lists all of the participants in a petition that is prepared and made available to the public under the link for a specific petition on the "Pending Matters" page on the Council website. Parties and intervenors will receive documents via e-mail. If a party or intervenor prefer to have hard copies of documents via regular mail, they must notify the Council in writing. Also, documents filed with the Council must contain one original, 15 copies and an electronic version for scanning to the website via e-mail or disk. The Council, parties and intervenors must send a copy of any document filed in a petition to every person on the service list and include a certification as follows:

"I hereby certify that a copy of the foregoing document was electronically mailed to the following service list on (date)." Signature and printed name of the sender.

Petition Process

- A. 30-day Notice Period:** Petitioners are required to notify and provide a copy of the petition to the host municipality and abutting property owners. When a petition is submitted to the Council, the Council provides notice of receipt of the petition to the host municipality and provides a 30-day comment period for the host municipality and any other interested persons to comment on the petition. During this 30-day notice period, the Council **may** schedule a public field review of the site.
- B. Public Field Review, if applicable:** If a public field review of the site is scheduled to be held, the Council provides notice to the Secretary of State, the host municipality, the petitioner and parties and intervenors to the petition. A copy of the field review notice is published on the Secretary of State's website, posted on the Council's website calendar and webpage for the subject petition. During the on-site public field review, the petitioner will provide an overview of the project and the Council, representatives of the municipality, parties, intervenors and the public may ask questions of the petitioner on the project.
- C. Requests for Additional Information:** When a petition is received, the Council may submit written questions to the petitioner on the proposed project requesting written responses within a period of time specified by the Council. The Council may also request additional information to be submitted within a period of time specified by the Council before, during or after the public field review is held, if applicable.

D. Petition Timeframe: The Council shall issue a decision on a petition for a declaratory ruling within 180 days of receipt of a petition for a declaratory ruling. Within 60 days after receipt of a petition for a declaratory ruling, the Council, in writing shall:

1. Issue a declaratory ruling;
2. Order the matter set for a specified proceeding;
3. Agree to issue a declaratory ruling by a specified date within 180 days of receipt of the petition;
4. Initiate regulation-making proceedings; or
5. Decide not to issue a declaratory ruling, stating the reasons for the action.

E. Final Decision on Petition: The Council will render a final decision at a regular Council meeting. The agenda for all Council meetings is published on the Council website. All parties and intervenors to a petition that is on an agenda will receive a copy of the agenda. Although regular Council meetings are open to the public, there is no opportunity for public participation during the meeting. All parties and intervenors will receive a copy of the final decision in the mail.



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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E-Mail: siting.council@ct.gov

Web Site: www.ct.gov/csc

REVISED SCHEDULE

PETITION NO. 1566 - The Connecticut Light and Power Company d/b/a Eversource Energy petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed Card Substation to Wawecus Junction Upgrade Project consisting of the replacement of electric transmission line structures along its existing 12.5-mile electric transmission right-of-way shared by its existing 115-kilovolt (kV) Nos. 1080/1490 and 1080/1070 Lines between Card Substation in Lebanon, Stockhouse Road Substation in Bozrah and Wawecus Junction in Norwich, Connecticut traversing the municipalities of Lebanon, Franklin, Bozrah and Norwich, and related electric transmission line and substation improvements.

Petition received	04/12/23
Public Comment Period Deadline	05/12/23
Public Comment Period Deadline with extension	05/26/23
Council 60-day Action – Set Date for Decision to 10/09/23	05/11/23
Council Interrogatories	
• Set One filed	05/23/23
• Set One responses received	06/09/23
Deadline for Action	06/11/23
Deadline for Exchange of Interrogatories between Parties and Intervenors (P&I)	07/06/23
Responses to P&I Interrogatories due	07/20/23
Deadline for Decision	10/09/23