



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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VIA ELECTRONIC MAIL

December 7, 2023

Lee D. Hoffman, Esq.
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06095
lhoffman@pullcom.com

RE: **PETITION NO. 1591** – KCE CT 5, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 5.0-megawatt AC battery energy storage facility located at Village Hill Road, Stafford (Parcel No. 71-6) and Willington (Parcel No. 52-001-00), Connecticut, and associated electrical interconnection. **Motion for Protective Order – Response to Council Interrogatory No. 4 Cost Information.**

Dear Attorney Hoffman:

At a public meeting held on December 7, 2023, the Connecticut Siting Council granted KCE CT 5, LLC's Motion for Protective Order, dated November 15, 2023, related to the disclosure of project construction costs, cost recovery mechanisms and energy pricing contained within the Response to Council Interrogatory No. 4 for this facility, pursuant to Connecticut General Statutes § 1-210(b) and Regulations of Connecticut State Agencies § 16-50j-62(d), on the basis that it contains confidential, proprietary information.

Thank you.

Sincerely,

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

Melanie A. Bachman
Executive Director

MAB/RDM/dll

c: Service List, dated September 12, 2023

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PETITION NO. 1591 – KCE CT 5, LLC petition for a declaratory ruling, pursuant to Connecticut General Statutes §4-176 and §16-50k, for the proposed construction, maintenance and operation of a 5.0-megawatt AC battery energy storage facility located at Village Hill Road, Stafford (Parcel No. 71-6) and Willington (Parcel No. 52-001-00), Connecticut, and associated electrical interconnection. Council Interrogatories to Petitioner.	Petition No. 1591
	November 15, 2023

PROTECTIVE ORDER

WHEREAS, KCE CT 5, LLC (“KCE” or the “Applicant”) is willing to submit an unredacted copy of a description of project costs, cost recovery mechanisms, and energy rates (the “Confidential Information”).

WHEREAS, KCE considers the Confidential Information to be confidential commercial or financial and proprietary information given in confidence and is exempt from disclosure under both state and federal law. *See*, e.g., 5 U.S.C. § 552; Conn. Gen. Stat. § 1-210.

WHEREAS, KCE has indicated its willingness to provide the Confidential Information to the Council subject to a protective order.

NOW THEREFORE, it is hereby ordered, that the following procedure is adopted for the protection of the Confidential Information:

1. The Confidential Information shall be governed by the terms of this Order.

This Order is applicable to all such Confidential Information, regardless of format.

2. All Confidential Information shall be subject to this Order and shall be given solely to the Council its staff. It is understood that and agreed that said information is confidential, subject to trade secrets, and constitutes commercial or financial information given in confidence.

3. Confidential Information shall be marked as such and delivered in a sealed envelope to the Council.

4. All recipients shall be bound by this Order.

5. In the event that the Confidential Information is to be used in any manner in any proceeding or hearing before the Council, such proceeding or hearing shall not be held before, nor any record of it made available, to any other party, intervenor, or other person or entity. Presence at such proceeding or hearing shall be limited to the Council, its staff and representatives of KCE. No record shall be disclosed, or communication made of the information at any time to any person or entity. Any transcript or other recording of the Confidential Information shall be placed in a sealed envelope or containers and a statement in the following form placed on such envelope or container:

CONFIDENTIAL INFORMATION

**This envelope is not to be opened or the contents
Thereof to be displayed or reveled except pursuant to the
Protective Order issued in Docket 1591.**

6. No copies shall be made of the Confidential Information unless expressly ordered by the Council.

7. Nothing herein shall be construed as a final determination that any of the confidential Information will be admissible as substantive evidence in this proceeding or at any hearing or trial. Moreover, nothing herein shall be considered a waiver of any party's right to assert at a later date that the material is or is not proprietary or privileged. A party seeking to change the terms of the Order shall by motion give every other party five (5) business days' prior written notice. No information protected by the Order shall be made public until the Council rules on any such motion to change the terms of the Order. Confidential Information otherwise properly discovered, even though also subject to the terms of the Order, shall not be considered protected by the Order.

8. No Recipient shall use or disclose the Confidential Information for purposes of business or competition, or for any other purpose, other than the purpose of preparation for and conduct of this proceeding, and then solely as contemplated herein, and shall in good faith take all reasonable precautions to keep the Confidential Information secure in accordance with the purposes and intent of this Order.

9. All copies of such Confidential Information shall be returned to KCE no later than thirty (30) days after the expiration of all appeal periods applicable to the final decision rendered in this proceeding.

CONNECTICUT SITING COUNCIL

By:  _____

Dated: December 7, 2023