

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**LSE SCUTUM LLC AND LSE BOOTES LLC
(LODESTAR ENERGY) PETITION FOR A
DECLARATORY RULING, PURSUANT TO
CONNECTICUT GENERAL STATUTES §4-
176 AND §16-50K, FOR THE PROPOSED
CONSTRUCTION, MAINTENANCE AND
OPERATION OF A 1.93-MEGAWATT AC
SOLAR PHOTOVOLTAIC ELECTRIC
GENERATING FACILITY LOCATED AT 141
TOWN FARM ROAD, AND PARCEL NOS. 86-
326 AND 86-164, ABBE ROAD, ENFIELD,
CONNECTICUT, AND ASSOCIATED
ELECTRICAL INTERCONNECTION**

PETITION NO. 1611

OCTOBER 3, 2024

POST-HEARING BRIEF

I. INTRODUCTION

Petitioners LSE Scutum LLC and LSE Bootes LLC (“Petitioners” or “Lodestar”) hereby submit this post-hearing brief to the Connecticut Siting Council (“Council”) in connection with Lodestar’s Petition for Declaratory Ruling for the Council’s approval of a 1.93 MW AC Solar Facility (“Project”) to be located in the Town of Enfield (“Town”). For the following reasons, Petitioners request that the Council approve the Petition.

II. ARGUMENT

In response to various concerns and requests expressed by members of the public, the Council and the Town, Lodestar has substantially altered the Project from its original design.¹ Lodestar has decreased the limit of disturbance on its revised site plan from the original 12.10 acres to 11.61 acres. Lodestar has also changed the solar design from a tracker to a fixed tilt system and moved equipment pads further from adjacent residential property lines to alleviate any

¹ See, Petitioner Late-Filed Exhibits Narrative, 07/30/24.

potential noise concerns, even though it is undisputed that the original design was in compliance with applicable noise regulations. *See*, Petition at Exhibit 8.

Lodestar made additional changes, including reducing the length of its access road. Lodestar has offered a more robust screening plan with additional vegetation and taller trees. Lodestar stated it was also willing to consider an agricultural-style fence if this was of interest to neighbors and offered to investigate beekeeping and other agrivoltaics uses.² Lodestar later modified its site plan to incorporate a new detail for an agricultural fence.³ Given all of the aforementioned changes, the Project now before the Council is significantly different from its original design. This is as it should be, since the suggestions of the Council and the Town improved the project and reduced its potential impact to the community. As now designed, the project will not have an adverse impact to the environment or the surrounding neighbors.

It would appear that with the changes proffered by Lodestar, the only remaining concern is the Town's opposition to locating the Project near the potential extension of a multi-use path running along Town Farm Road. The current path is used as a walking and biking path, and the Town intends to extend the path by approximately two miles in proximity of the Project Site.⁴ Of note, the Town confirmed that it has not received all necessary approvals for such extension.⁵ Moreover, Lodestar corresponded with the Town for more than one (1) year through twenty-one email messages and also attended the Town's Planning and Zoning Commission meeting on October 12, 2023 to present the Project plans and note any Town input and recommendations to be incorporated into the site plans prior to submission to the Council.⁶ However, not once in any

² *See*, Hearing Transcript 2 p.m., 05/16/24 at p. 38; 106-07.

³ *See*, Continued Evidentiary Hearing Transcript 2 p.m., 09/10/14 at 27-8.

⁴ *See*, Pre-Filed Testimony of Donald Nunes, 7/30/24.

⁵ *See*, Hearing Transcript 2 p.m., 08/6/2024 at 143.

⁶ *Id.* at 87.

of those emails or during the Planning and Zoning Commission meeting, did the Town inform Lodestar of the plans to extend the multi-use path near the Project Site. Rather, the Town waited until *after* the initiation of this proceeding to inform Lodestar and the Council of this planned extension. Many, if not all, of the Town's issues could have been addressed if the Town had come forward sooner.

The Town's Director of Public Works, Donald Nunes, however, has claimed that the multi-use path would be affected by the Project because the proposed access road to the Project would cross the path, and may cause the need for a concrete pipe culvert and possible headwalls. Mr. Nunes claimed that the Project's access road would prohibit pedestrians and cyclists from using the path during the construction phase.⁷ Yet, when asked by Council Member Mr. Golembiewski whether the multi-use path and the Project could coexist, Mr. Nunes admitted, "Coexisting, yes, there will be significant coordination... to get through it. And the crossing as currently designed is problematic."⁸ However, Mr. Nunes conceded that the multi-use path, as it stands today, crosses about ten different driveways, including the access road to the Town's transfer station/landfill and will likely cross an additional five driveways upon the completion of its extension.⁹ If a property owner attempted to build a new home and cross the path, Mr. Nunes also stated the construction for the extension of the path would not inhibit or delay such a crossing.¹⁰

Thus, to the extent that the multi-use path extension precedes Project construction, Lodestar has stated that it would simply shift its drainage ditch to the north and move the associated pipe into the new location of the drainage ditch and there would be no consequences of such a

⁷ See, Continued Evidentiary Hearing Transcript 2 p.m., 08/06/24 at p. 149.

⁸ See, Continued Evidentiary Hearing Transcript 2 p.m., 08/06/24 at 164.

⁹ See, Continued Evidentiary Hearing Transcript 2 p.m., 08/06/24 at 191.

¹⁰ See, Continued Evidentiary Hearing Transcript 2 p.m., 08/06/24 at 191-92.

move.¹¹ Lodestar does not anticipate that the extension of the path would present any difficulties for the Project, nor would it require further changes to the landscaping plans.¹² Otherwise, if Project construction is complete prior to the extension of the multi-use path, the access road would simply consist of one additional driveway to the existing ten driveways which currently cross the path.

In the unlikely event that Project construction and the multi-use path extension occur simultaneously, Mr. Nunes claims that Project construction would impact the multi-use path extension by possibly interfering with the timing of utility work needed for the path extension.¹³ Mr. Nunes, however, admits the two could coexist with coordination.¹⁴ Lodestar has stated on record that it would be willing to work with the Town to coordinate construction work.¹⁵ Should the Council feel it is appropriate to make such coordination a condition of the Project's approval, Lodestar would gladly accept such a condition.

III. CONCLUSION

The record contains ample evidence that no substantial environmental impact is anticipated from the Project and that evidence is undisputed. The Project complies with all regulatory standards and the redesigned Project has addressed and resolved all of the Council's, Town's and neighbors' concerns and further reduces the possibility of any environmental impact. Perhaps most importantly, there is no evidence in the record that demonstrates any environmental impact, any concerns over visibility or any concerns regarding ambient noise. The only evidence in the record that comes close to being an issue for the project relates to the multi-use path. As discussed

¹¹ See, Continued Evidentiary Hearing Transcript 2 p.m., 09/10/14 at 24-25.

¹² See, Continued Evidentiary Hearing Transcript 2 p.m., 09/10/14 at 27.

¹³ See, Continued Evidentiary Hearing Transcript 2 p.m., 08/06/24 at 150.

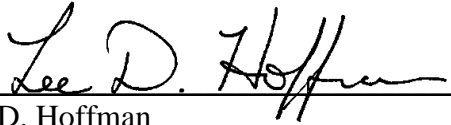
¹⁴ See, Continued Evidentiary Hearing Transcript 2 p.m., 08/06/24 at 164.

¹⁵ See, Continued Evidentiary Hearing Transcript 2 p.m., 09/10/14 at 38.

above, when this evidence is examined, it is found to be lacking. Thus, there is no reason for the Council to deny this Petition.

WHEREFORE, Lodestar respectfully requests that the Council grant the Petition and allow this project to go forward.

Respectfully submitted,
PETITIONERS
LSE SCUTUM LLC AND LSE BOOTES LLC

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