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October 17, 2024

VIA ELECTRONIC MAIL

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

Re: Petition No. 1611 - 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

Dear Ms. Bachman:

I am writing on behalf of my client, LSE Scutum LLC and LSE Bootes LLC, (“Lodestar”) in connection with the above-referenced Petition. Specifically, I am writing in response to the October 16, 2024 comments from the Town of Enfield (“Town”) regarding the Council’s Draft Findings of Fact dated October 10, 2024 (“FOF”).

With these comments, the Town attempts to circumvent the Council’s Revised Schedule, in which the Council set the deadline for Party and Intervenor Post-Hearing Briefs to be submitted by October 3, 2024. By providing substantive comments on this proceeding within its comments to the FOF, which should have been provided in a Post-Hearing Brief due two weeks ago, the Town acted in disregard of the Council’s established schedule. Adding insult to injury, the Town’s comments were incorrect, both as a factual and legal matter.

In its comment to FOF No. 1, the Town claims that the Project is located “on farmland with prime soils, without co-use farming” and that there will be “impairments to the farmland.” The Town further claims in its comments to FOF Nos. 52 and 205 that Lodestar has not proposed that it would implement the Council of Environmental Quality’s recommendations. As the Council heard in testimony from Lodestar, the site has limited agricultural value and does not contain “agricultural soil of statewide importance. It has been used previously as a gravel bank... and the landowner offered this property to the Town... for agricultural preservation in the past few years, and it’s been rejected by the town for such purpose.” Continued Evidentiary Hearing Transcript 2 p.m., 09/10/14, at p.28. Notwithstanding the forgoing, Lodestar has made it clear that the farm soils had

previously been used to grow squash, and if the landowner is growing squash this year, Lodestar would wait until harvest to commence work, and would plant a cover crop such as a rye or a fescue to protect the soil. *See*, Hearing Transcript 2 p.m., 05/16/24, at p. 24-5. This prevents soil erosion and would promote stronger vegetation growth for the following seasons. Petitioner Response to Council Interrogatories, 05/09/24, at p. 11. Thus, contrary to the Town's claims that there will be "impairments to farmland", Lodestar has indicated it shall take affirmative steps to protect such farmland, despite its limited agricultural value.

The Town's comment to FOF Nos. 31 and 87 contains a misstatement of the law. The Town claims that Connecticut's Supreme Court "ruled that the Council **should** consider evidence of a proposed facility's adverse impact on property values, where as here, that impact 'is relevant to the council's determination of a facility's probable impact[.]'" This is an incorrect and misleading summary of the case. The *Woodbridge Newton* Court held very differently than the Town contends:

We next consider the plaintiff's claim that the council was statutorily required to consider the proposed tower's impact on property values. The plaintiff contends that both the plain language of the statute and the decision in *Westport v. Connecticut Siting Council*, 47 Conn. Supp. 382, 797 A.2d 655 (2001), which was affirmed and adopted by this court; *Westport v. Connecticut Siting Council*, 260 Conn. 266, 274, 796 A.2d 510 (2002); demonstrate that the council is obligated, pursuant to § 16-50p (a)(3)(B), to consider a facility's impact on property values. **We disagree and conclude that a facility's impact on property values is not an enumerated or an unenumerated significant adverse effect. And, although the council may consider a facility's impact on property values when such evidence is relevant** either to the facility's probable environmental impact or to one of the significant adverse effects enumerated in § 16-50p(a)(3)(B), **the plaintiff failed to argue that property values were relevant** or to introduce any evidence that would have allowed the council to so conclude.

Woodbridge Newton Neighborhood Env't Tr. v. Conn. Siting Council, 349 Conn. 619, 635 (2024) (emphasis added). In *Woodbridge*, the Court specifically addressed the plaintiff's argument that the Council is obligated to consider property value impacts and expressly disagreed with this contention. Rather, contrary to what the Town of Enfield stated in his commentary, the *Woodbridge* Court held that such consideration is **not** a statutory requirement, and the Council "may" consider such impacts only when relevant to the facility's environmental impact or to one of the adverse effects in Conn. Gen. Stat. § 16-50p(a)(3)(B). Thus, the Council is correct in its statement of FOF No. 31 that it is not obligated to consider impacts to property values.

The Town also provides a comment to FOF No. 33 in the form of a quote allegedly from the 5/16 Public Hearing Transcript, p. 17. However, following a search of the transcript, it is unclear where this quote came from. If in fact it is not a part of the record, it cannot be considered. Moreover, the Town also includes hearsay within its comment to FOF No. 56, by citing to a portion of testimony which claimed that a Lodestar representative made a certain statement outside of this administrative proceeding. It is not part of the record and is therefore improper to consider.

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Contrary to the Town's complaint in its comment to FOF No. 68 that Lodestar "did not identify any specific public benefit to the Town", the interrogatory response to which the Town cites *does* in fact provide that although Lodestar is not required pursuant to Conn. Gen. Stat. § 16-50g *et seq.* ("PUESA"), to establish specific benefits to the Town, the Town "will receive property taxes from the Facility" without any additional road traffic, school enrollment, or other Town services. *See*, Petitioner Response to Town of Enfield Interrogatories, 05/09/24, response to No. 3.; Continued Evidentiary Hearing Transcript 2 p.m., 09/10/14, at 36-7 (stating that there will be a "significant increase over the current tax base" for the Town.) Further, the Town claims in this comment that Lodestar has not tested the solar equipment for the presence of PFAS, yet the Town cites to the very page in the transcript where Lodestar provided testimony that "it is our understanding that there are no PFAS in the modules as evidenced by the TCLP report." *See*, Continued Evidentiary Hearing Transcript 2 p.m., 09/10/14, at p. 34. Of note, the Town has provided no evidence that **any** solar panels contain PFAS that will leach into the environment, but instead has attempted to shift the burden onto Lodestar to prove the negative concerning PFAS. Moreover, PFAS testing is not required for Petitions at this time, and Lodestar has performed all required testing. *See*, Petitioner Response to Council Interrogatories, 05/09/24, at p. 12 (confirming the results of TCLP testing that demonstrated the panels would not be characterized as hazardous waste at the time of disposal).

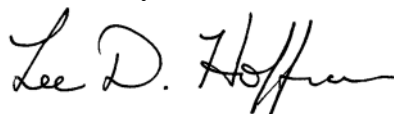
The Town claims in its comment to FOF No. 82 that Lodestar "did not provide any specific reason why each alternative site that was identified was not selected". Such analysis is not required by the PUESA and has not typically been required of Petitioners in Council proceedings.

The Town's complaints within its comment to FOF Nos. 95 and 217 regarding access to the multi-use path and possible traffic impacts have been fully addressed throughout the record and more specifically in Lodestar's Post-Hearing Brief. *See also*, Hearing Transcript 2 p.m., 05/16/24, at 96-7. (Lodestar has testified that "there's not going to be a significant amount of traffic [even during construction]... there would [not] be a need for traffic control for... a single truck to... unload these materials and leave.")

Finally, the Town's concerns regarding uncertainty of additional noise of equipment use in its comment to FOF No. 137 may be alleviated by the Council's decision to make a post-construction noise study a condition of approval of this Petition, as it has with many other recent petitions.

Should you have any questions concerning this submittal, please contact me at your convenience. I certify that copies of this submittal have been submitted to all parties on the Service List as of this date.

Sincerely,

A handwritten signature in black ink that reads "Lee D. Hoffman". The signature is written in a cursive, flowing style.

Lee D. Hoffman