



Lee D. Hoffman
90 State House Square
Hartford, CT 06103-3702
p 860 424 4315
f 860 424 4370
lhoffman@pullcom.com
www.pullcom.com

January 8, 2025

VIA ELECTRONIC MAIL AND HAND DELIVERY

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

Re: PETITION NO. 1637 – KCE CT 11, 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 4.99-megawatt AC battery energy storage facility and associated equipment located at 100 Salmon Brook Street, Granby, Connecticut, and associated electrical interconnection.

Dear Ms. Bachman:

I am writing on behalf of my client, KCE CT 11, LLC, in connection with the above-referenced Petition. With this letter, I am enclosing the original and fifteen copies of the Petitioner's Brief for this matter.

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 Application's Service List as of this date.

Sincerely,

Lee D. Hoffman

Enclosure
cc: Service List

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

PETITION NO. 1637 – KCE CT 11, 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 4.99-megawatt AC battery energy storage facility located at 100 Salmon Brook Street, Granby Connecticut and associated electrical interconnection.	Petition No. 1637
	January 8, 2025

POST-HEARING BRIEF

KCE CT 11, LLC, a subsidiary of Key Capture Energy (“KCE” or the “Petitioner”) hereby submits this post-hearing brief to the Connecticut Siting Council (“Council”) in connection with KCE’s Petition for a Declaratory Ruling for the Council’s approval of a 4.99 MW AC battery energy storage facility (“Project”) to be located at 100 Salmon Brook Street, Granby Connecticut (“Site”). For the following reasons, KCE requests that the Council approve the Petition.

KCE’s Petition as drafted, along with KCE’s responses to interrogatories and questioning during the hearings should be sufficient on their own to warrant approval of this Petition. However, it should be noted that during the course of these proceedings, KCE has made every attempt to address and alleviate concerns raised by the Town of Granby (“Town”) and various members of the public. In doing so, KCE demonstrated that it was willing to go above and beyond the minimum necessary for an approved project and respond to valid concerns that were raised during the process. However, as the Town’s Brief makes clear, the Town is ignoring key pieces of evidence in a vain attempt to block this project.

For example, one concern that was resolved during the proceedings was whether KCE would have site control and access if the Project were approved. While on the first day of hearings,

as the Town correctly notes, there was some confusion regarding the site control that KCE needed and possessed, that confusion was eliminated through clarifying questioning on the second day of evidentiary hearings. *Continued Evidentiary Hearing Transcript 2 p.m., 12/10/24* (hereinafter, “Continued Transcript”), p. 78-9. During that continued hearing, KCE explained to the Council that it has full site control and access because it holds an easement that was contained within the deed that conveyed KCE’s interest in the Site. *Id.* That easement guarantees access to the Site. *Id.* KCE intends to enter a shared-use agreement with the two other property owners of the Site as good industry practice so that it may take responsibility for certain upgrades, repairs and ongoing Site maintenance. *Id.* That line of questioning resolved the issue cleanly, however, the Town’s Brief omits any discussion of these clarifications.

Later during the continued hearing, the Town raised further questions regarding Site access, as it claimed a public safety concern arose due to the point of access chosen by KCE. *Id.* at 112. But as the Town acknowledged, KCE selected the proposed access point through an existing parking lot to avoid adverse impacts to wetlands that would become necessary if it selected a path directly from Salmon Brook Street, thereby reducing the Project’s environmental impact. *Id.*; *Hearing Transcript 2 p.m., 11/19/24* (hereinafter, “Transcript”), p. 92-5.¹ The Town also claimed the easement conflicts with potential drive-through traffic for an adjacent commercial restaurant use. *Continued Transcript*, p. 112. However, a review of the record shows that the drive-through is not located within the access easement area. *Petition, Figure 4, Proposed Conditions.* Contrary to the Town’s assertions, a curb and several parking spaces separate the easement area from the drive-through. *Id.*

¹ KCE notes that the Transcript contains a typographical error on page 95. Mr. Williamson responded to Ms. Katz’s questioning regarding access to the Site through the deeded easement and stated on line 15, “And so [the shared-use agreement is] both required by the [deed], but also good practice[.]” The Transcript reads “required by the DEEP...” but Mr. Williamson’s testimony was “required by the deed”.

It appears that the Town's concerns regarding access are that the current access situation, if it is allowed to continue, does not provide for adequate access for emergency vehicles. This is puzzling on two levels. First, there is no evidence in the record that emergency vehicles are unable to enter the parking lot as it is currently configured. This makes sense, since emergency vehicles would need to enter the parking lot should a fire occur at one of the businesses currently located in the area. Thus, this argument from the Town is without merit. Moreover, as KCE demonstrated, through its proffered turning radius study, the proposed access provides ample access for emergency response vehicles. *Petitioner Responses to Council Interrogatories, Set One, 11/12/24* ("Responses to Council"), Attachment C, Turning Radius Study. With respect to the access and emergency vehicle issues, therefore, KCE has provided the Council with facts and reports upon which the Council can rely. The Town has provided no evidence of its own that contradicts these facts and reports. As a result, KCE's proposed access does not conflict with existing surrounding uses, nor does it prevent emergency vehicles from entering the area.

This concern over emergency vehicles leads to what appears to be the Town's chief concern, namely the risk associated with a potential fire at the proposed facility. As was demonstrated during the evidentiary hearings, a fire or thermal runaway event is unlikely because KCE adheres to the newest global fire and safety codes which require numerous safety protection measures in the project designs. For example, the facility is equipped with dual and independent smoke and heat sensors, fire alarms/strobe lights, an emergency stop, a Fire Alarm Control Panel, combustible gas detectors that trigger ventilation fans, internal fireproof walls to separate the battery cabinets from the auxiliary cabinet, a ventilation system with deflagration panels which reduce any potential gas build up, and an HVAC system within each battery container to regulate temperature and detect any potential coolant leaks. *Petitioner Responses to Town of Granby*

Interrogatories, 11/12/24 (hereinafter, “Responses to Town”), p.15-6. The Town, however, chooses to ignore all of these safety measures, but provides no information on its own that a fire risk is likely given these safeguards. Again, all the Town provides is worry and conjecture, contrasted to the facts, data and expertise that KCE provided to the Council.

The Town makes much of the IAFC guidance document that was relied upon by the Council in recent proceedings that did not have the benefit of a hearing to get at relevant facts and standards. As such, the Town has misinterpreted the IAFC document to stand for the proposition that the IAFC has called for a moratorium on the construction of all battery storage systems within 300 feet of a property line. That interpretation both misreads the IAFC guidance document and ignores the fact that the IAFC itself has since modified its own guidance on the issue in coordination with other fire-fighting organizations. Now that such information has been provided to the Council, however, the Council has the benefit of relying upon that information to make its decision in this Petition.

The Town relies on the August 1, 2022 IAFC Bulletin (“IAFC Bulletin”), which it requested administrative notice on December 9, 2024, for its assertion that battery energy storage systems must be built at least 300 feet from property lines because the IAFC Bulletin states, in part, “Maintaining a safe distance from the unit involved (large commercial systems, at least 300’).” In doing so, however, the Town misconstrues both the plain language of the IAFC Bulletin and the testimony that was presented during the evidentiary hearings. That section of the IAFC Bulletin falls under the heading of “Responding to a venting ESS product.” Thus, it is clear that the 300 foot safe distance guidance is only during times of fire, rather than a moratorium on construction. Indeed, the uncontradicted testimony in this matter shows that this is the case. As Andrew Blum, who was responsible for drafting the NFPA standard on energy storage facilities,

testified, that three hundred foot radius is not a moratorium on construction, rather, that 300 foot radius is a: “staging distance that fire departments would use as their initial distance that they would use to -- when they approach a site like this.” Transcript, p. 120-21. Mr. Blum continued to explain:

So just like they would -- how they would approach a vehicle fire or a residential fire, a commercial building fire, you don't pull right up and park right at the front door. Right? You start further away. You -- you have an appropriate staging distance. You then size up the fire and then make the appropriate adjustments.

And so that document there in 2022 talks about 300 feet as being their recommendation. It doesn't necessarily mean it applies to every site, but -- but that was their initial recommendation back in 2022. *Id.*

Perhaps even more importantly, Mr. Blum testified to the fact that the guidance cited by the Town *has since changed*, however, the Town steadfastly refuses to recognize that fact. Mr. Blum described the changes as follows on pages 121 and 122 of the Transcript:

And then I would add they've -- actually were part of some additional recommendations that came out in 2023 in coordination with a number of other entities, including the National Fire Protection Association. And so even between 2022 and 2023, based on their experience and -- and their understanding of battery fires, they've actually reduced that distance to 150 feet.

And so their initial response right now, or at least their recommendation is that when you show up to stage at least 150 feet away, and then you can do an initial isolation of that area. So if we're talking evacuations, you may want to do that initial 150 feet as you are collecting data and -- and getting comfortable with what's going on at the site.

For that 150-foot staging area, Mr. Blum was referring to the June 2023 document, “Firefighting Operations with Lithium-Ion Batteries” that was authored not only by the IAFC, but also the NFPA, and four other fire-fighting organizations. *See Petitioner Late-Filed Exhibits, 12/03/24* (hereinafter, “LFEs”), Exhibit 5. The Town’s bald assertions, without evidence, that the IAFC played no role in the creation of that document despite having its name and logo appear on

that document, do not render the document any less relevant or probative. The consensus on site response radius has shifted since 2022, and KCE has designed its proposed facility accordingly.

KCE selected the proposed Site location to be at least 150 feet from the nearest commercial building, which is compliant with the most up-to-date industry guidance. Transcript, p. 149; Continued Transcript, p. 17-9. This would allow a potential evacuation zone of 150 feet or greater, as advised by the International Association of Fire Chiefs (“IAFC”). *Petitioner Responses to Town of Granby Interrogatories, 11/12/24, Attachment C, Fire Fighting Operations with Lithium-Ion Batteries*. The Council has acknowledged that this guidance is a revised document which updates the IAFC’s prior recommended 300-foot evacuation zone. Continued Transcript, at p. 18-9; Transcript at 120-22. The Town’s First Selectman noted that the northernmost property line is within 150 feet of the proposed facility and the four commercial buildings are somewhere between 150 and 300 feet of the Project. Continued Transcript, at p. 112.

Moreover, KCE has not experienced a BESS fire event with any of its fourteen operational projects comprising 650 MW, other than small electrical infrastructure fires that are unrelated to the batteries. Transcript, p. 62; 67. The newsworthy types of thermal runaway events that have raised concerns in this proceeding have occurred only with fundamentally different types of battery systems such as those that are used in recycling facilities or large buildings that contain batteries. *Id.* at 76. The lithium iron phosphate batteries proposed for the Project involve a more stable battery chemistry which is less likely to undergo a thermal runaway event than other types of batteries that are lithium-metal based. *Id.* at 80-1; 115-16. The lithium iron phosphate batteries must get to significantly higher temperatures than lithium metal varieties before they can go into thermal runaway and are less chemically reactive than lithium metals. *Id.*

In the unlikely event a fire does occur, however, KCE has designed the Project to mitigate any potential risks. KCE is working with one of the world's foremost experts in battery energy storage system ("BESS") fire protection, Andrew Blum of Fire & Risk Alliance, who is a member of the committee that authored the applicable BESS fire safety code, the National Fire Protection Agency ("NFPA") 855. Transcript, p. 35-6. As alluded to above, Mr. Blum has also consulted on hundreds of projects throughout the country, authored several papers and a book on BESS fire safety. *Id.*

As Mr. Blum explained during the hearing, fire suppression systems like aerosol sprinklers and/or the application of water are ineffective at inhibiting thermal runaway. *Id.* at 38. Rather, NFPA 855 instructs that the BESS should be designed with safety features that contain fire to individual battery units, which KCE has included within this Project's design. *Id.* KCE's expert, Joel Vyduna, confirmed that because the industry guidance instructs against actively fighting BESS fires, local volunteer fire departments do not require any special equipment in the event of a fire. *Id.* at 68. There is a fire hydrant which is located approximately 200 feet away from the Project, but as noted by Fire & Risk Alliance, at almost every BESS fire, the fire department monitors the event without applying any water. *Id.* at 72-3.

On page 6 of its Brief, the Town attempts to make hay out of the fact that there is a lone fire hydrant nearby, which is at the end of a water line and is therefore a single point of failure. This ignores three salient facts. First, almost all hydrants are on a single water line, therefore, they are all likely to be a single point of failure. Second, the hydrant placement was presumably deemed adequate to contain the fires that may occur in the surrounding shops (and which are statistically more likely than an energy storage facility to catch fire, as indicated on page 10 below). Finally, as has been mentioned throughout this Brief and in the testimony that the Council heard, water is

not to be used to fight a battery energy storage system fire. Thus, the hydrant issue proffered by the Town is nothing more than a red herring.

The issue of firefighting also comes into play when considering the Town's arguments related to potential aquifer protection issues. Contrary to the Town of Granby's concern that the nearby aquifer could be affected by a potential fire at the proposed facility, KCE has made abundantly clear that in the unlikely event of a fire, water is not applied directly to the distressed battery container, and thus, no runoff is expected from such an event. Responses to Town, p. 12. In fact, Council Member Mr. Syme, has recognized that in the event of a fire, minimal amounts of water would be used, and no contamination of nearby water resources is likely. Transcript, p. 84.

Notwithstanding the foregoing industry standard that advises against the use of water to combat a fire, even if as Mr. Syme suggested, a minimal amount of water was used on or near the containers, the Project has been designed to include stormwater retention basins which ensure that any potential water runoff would be immediately contained to the Site and would then be collected for off-site disposal. Responses to Town, at 11-12; Transcript, p. 85. The battery containers are also sealed and thus, no water applied to the outer container would enter and re-exit such containers with any potential pollutants. Transcript, p. 85-86. Further, KCE performed a plume study which found that any possible toxic and/or flammable gases that could release in the event of a fire would not extend beyond the Site's property line. *Id.* at 40; LFEs, Exhibit 1, p. iii.

Although the Town attempts to denigrate the plume study, the simple fact of the matter is that the Town proffered no evidence of its own that shows any flaws with the plume study, only conjecture through its brief. The plume study modeled and simulated every cell within the BESS undergoing thermal runaway, and measured every potential gas that could release from the containers while using the "worst-case environmental conditions" possible that could produce the

largest extent of gas dispersion. Continued Transcript, at p. 81-3. The study also replicated Site conditions by utilizing data from the closest weather stations at Bradley International Airport and Barnes Municipal Airport. *Id.* The study did not need to take into consideration any water runoff in the event of a fire because, as explained above, industry guidance advises against the application of water, and even if water is used, that water is collected in catch basins and disposed of off-site. Transcript, p. 85-86.

Moreover, the Town's aquifer protection zone hosts numerous other commercial uses surrounding the Site, including, a Stop & Shop grocery store, a TJ Maxx, a liquor store, a car wash, an urgent care center, restaurant, the Farmington Valley YMCA, and Monrovia Nursery Company. Continued Transcript, p. 117-19. Other restaurants and several auto repair facilities are also located elsewhere in the aquifer protection zone. Transcript, p. 134. As the Town's witness acknowledged, any building that has been approved within the last thirty-four years, since the establishment of the aquifer protection zone, is subject to the Town's aquifer protection regulations. Continued Transcript, p. 117-19.

Some of the chemicals stored at the surrounding properties may pose an equal or even greater risk to health and the environment than the proposed Project. Such chemicals include pesticides and herbicides used by Monrovia Nursery. Continued Transcript, p. 121-22. Other potential chemicals that may be stored in buildings near the Site might include gardening supplies like glyphosates, cleaning agents and detergents that may contain ammonia, chlorine, and bleach (Continued Transcript, p. 119-120; 128), and commercial heating fuels which heat these buildings. Several other facilities in the aquifer protection zone store used oil on-site resulting from restaurant use and automotive repair use. Responses to Council, Attachment F, Oil-Storage in Aquifer Protection Zone – Response to Interrogatory No. 45.

The proposed BESS, however, contains nothing new or unique to its surrounding uses. Rather, it includes plastic materials, thermal insulation materials, electronics and the iron phosphate-based batteries. Transcript, p. 81. KCE appreciates that some types of new battery technologies involve rare or heavy earth metals that may raise concerns for people's health and safety, but the iron-based proposed BESS does not pose the same concerns (*Id.* at 80), and as explained above, any risks associated with a fire are well researched and contained to the Site. According to the Electrical Power Research Institute, BESS fires are rare - less than 0.05% of BESS facilities - and do not pose higher risks than fires in homes, businesses, and other facilities with fuel tanks, oil and solvent storage and/or electrical systems. *Id.* at 82 The risk may be contrasted with the 1.2% of restaurants which experience fires each year. *Id.* Fumes from BESS fires, however, are similar in composition to fumes resulting from the burning of plastic-based household items and furniture. Responses to Council, p. 15.

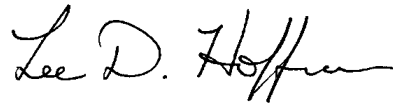
This Project, which has the potential to charge and discharge at 4.99 MW for up to four hours of time for discharge (Transcript, p. 29), is an integral bridge to meet the State's renewable energy goals and enable existing solar projects to meet their maximum potential. Transcript, p. 108. The Site was selected in a location where electric supply and demand are not matched and thus, the Project can remedy both congestion and insufficient supply and will therefore improve grid reliability and resiliency. *Id.* at 110; LFEs, Exhibit 4. KCE is one of the few BESS developers able to bring a project of this magnitude to Connecticut and is eager to assist the State in meeting its renewable energy objectives. The Project requires minimal tree clearing with no significant wetlands impacts (Transcript, p. 89-90), no impact to core forests (Transcript, p. 64) and no impacts to water resources (Transcript, p. 139-40). KCE has taken every step to ensure the highest levels of safety in designing this Project, including hiring Fire & Risk Alliance to collaborate with

local emergency response and develop a site-specific response plan and individualized training. Transcript, p. 69. KCE intends to continue to work with the Council and local officials throughout the construction process and the Project's lifespan to ensure the highest safety standards are met. Continued Transcript, p. 70-4.

WHEREFORE, KCE respectfully requests that the Council grant its Petition.

Respectfully submitted,

KCE CT 11, LLC ,



By: _____

Lee D. Hoffman
Liana A. Feinn
Pullman & Comley, LLC
90 State House Square
Hartford, CT 06103
(860) 424-4315 (phone)
(860) 424-4370 (fax)
lhoffman@pullcom.com
Its Attorneys