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December 27, 2024

VIA EMAIL & FIRST-CLASS MAIL

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

Re: Petition No.1646 - Kinsley Energy Systems, LLC (Kinsley Group, Inc.) Petition For a Declaratory Ruling, Pursuant to Connecticut General Statutes §4-176 and §16-50k, for the Proposed Construction, Maintenance and Operation of a 300-Kilowatt AC Battery Energy Storage Facility and Associated Equipment to be Located at the New Canaan YMCA, 564 South Avenue, New Canaan, Connecticut, and Associated Electrical Interconnection. **Supplement to Petition-Motion for Clarification**

Dear Ms. Bachman:

On behalf of Petitioner in the above titled action, undersigned counsel submits the enclosed Supplement to the above-referenced Petition and Motion for Clarification as to whether the Connecticut Siting Council has jurisdiction over energy storage facilities, including battery energy storage systems, with capacities under 1.0 MW AC.

Do not hesitate to contact me if you have any questions or concerns.

Very truly yours,

Paul R. Michaud

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Kinsley Energy Systems, LLC (Kinsley Group, Inc.) Petition for a Declaratory Ruling Pursuant to Connecticut General Statutes §4-176 AND §16-50k, for the Proposed Construction, Maintenance and Operation of a 300-Kilowatt AC Battery Energy Storage Facility and Associated Equipment to be Located at the New Canaan YMCA, 564 South Avenue, New Canaan, Connecticut, and Associated Electrical Interconnection.

Petition No. 1646

December 27, 2024

SUPPLEMENT TO PETITION

PETITIONER'S MOTION FOR CLARIFICATION

On October 16, 2024, pursuant to Connecticut General Statutes (“C.G.S.”) §§ 4-176 and 16-50k, Kinsley Energy Systems, LLC, a subsidiary of Kinsley Group, Inc. (“Petitioner”), filed a petition for a declaratory ruling for the approval by the Connecticut Siting Council (“Council”) of the construction, operation, and maintenance of a 300 kW AC battery energy storage system (“BESS project”) to be constructed as part of a behind-the-meter CHP facility at the YMCA located at 564 South Avenue in the Town of New Canaan, Connecticut, and owned by the New Canaan YMCA. After filing its Petition, Petitioner learned of several other BESS projects that had not filed for approval with the Council based on the apparent assumption that Connecticut Statutes exempt from Council jurisdiction BESS facilities with capacities under 1.0 MW AC. Petitioner, therefore, moves the Council to clarify whether it has jurisdiction under Connecticut statutes over the siting of battery energy storage facilities including those with capacities under 1.0 MW AC. Petitioner offers the following analysis to assist the Council in its determination.

The relevant part of C.G.S. § 16-50k is that “the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling... (B) the

construction...of any customer-side distributed resources project or facility...of not more than sixty-five megawatts, as long as: (i) Such project meets air and water quality standards of the Department of Energy and Environmental Protection, (ii) the council does not find a substantial adverse environmental effect..." C.G.S. § 16-50k (a) (B). The term "facility" is defined in C.G.S. § 16-50i in relevant part to mean any electric generating or ***storage facility using any fuel...***" C.G.S. § 16-50i (a) (3) (emphasis added). The term "fuel" in turn is defined in C.G.S. § 16a-17 as including "coal and coal products, electricity, natural gas, petroleum products, radioactive materials, wood fuels and any ***other resource yielding energy.***" C.G.S. § 16a-17 (a)(2) (emphasis added). Here, the BESS project is a customer-side distributed resources storage facility that uses fuel in that the battery's chemical energy is converted to electrical energy when it is released from the battery. At times during a grid outage the BESS project may also store energy produced by the CHP system with which it is paired as part of a microgrid-like system and use that fuel to convert chemical energy to electrical energy to feed the YMCA facility. Thus, Petitioner interprets the relevant statutes and their application to Petitioner's BESS project, to result in the project falling under the jurisdiction of the Council.

C.G.S. § 16-50i expressly excludes from the definition of "facility" for Council jurisdictional purposes any "facility utilizing renewable energy sources, [with] a generating capacity of one megawatt of electricity or less..." C.G.S. § 16-50i (a)(3)(C). Others who have bypassed filing for approval of battery energy storage facilities with the Council might have misplaced reliance on this statutory exclusion. Battery energy storage facilities, however, are not sources of renewable energy as that term is defined in Connecticut statute. C.G.S. § 16-1 (a)(20) defines a Class 1 renewable energy source as:

(A) electricity derived from (i) solar power, (ii) wind power, (iii) a fuel cell, (iv) geothermal, (v) landfill methane gas, anaerobic

digestion or other biogas derived from biological sources, (vi) thermal electric direct energy conversion from a certified Class I renewable energy source, (vii) ocean thermal power, (viii) wave or tidal power, (ix) low emission advanced renewable energy conversion technologies, including, but not limited to, zero emission low grade heat power generation systems based on organic oil free rankine, kalina or other similar nonsteam cycles that use waste heat from an industrial or commercial process that does not generate electricity, (x) a run-of-the-river hydropower facility... (xi) a biomass facility that uses sustainable biomass fuel... (xii) a nuclear power generating facility... or (B) any electrical generation... generated from a Class I renewable energy source...

Since battery energy storage systems are not defined in the statute as a renewable energy source, the exclusion for renewable energy facilities with capacities of 1.0 MW or less does not apply. Traditional canons of statutory construction dictate that an exclusion from a statute must be explicit. Since the statutes do not explicitly exclude battery storage facilities, whatever their capacity, the Council has jurisdiction over the siting of all battery energy storage facilities.

To create a consistent regulatory approval process for all proposed BESS projects, Petitioner seeks clarification from the Council on whether, pursuant to C.G.S. §§ 16-50k (a)(B) and 16-50i(a)(3)(C), the Council has jurisdiction over energy storage facilities, including battery energy storage systems with capacities under 1.0 MW AC.

RESPECTFULLY SUBMITTED,

Kinsley Energy Systems, LLC



By: _____

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