

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

SMART Technology Systems, LLC petition for a	:	
declaratory ruling, pursuant to Connecticut	:	
General Statutes §§ 4-176 and §16-50k, for the	:	Petition No. 1719
proposed construction, maintenance and	:	
operation of a 45-megawatt electric generation	:	
and municipal waste recycling management	:	
facility and associated interconnection located	:	September 2, 2026
between Norwich and Black Hill Roads in	:	
Plainfield, Connecticut.	:	

**Requests to the Connecticut Siting Council
to Conduct a Full Certificate Proceeding in this Matter
and to Dismiss the Petition due to an Existing Jurisdictional Defect**

I. Introduction and Relief Requested

The Town of Plainfield (the “Town”) hereby requests that the Connecticut Siting Council (the “Council”) refuse substantive consideration of SMART Technology Systems, LLC’s (the “Petitioner”), *Petition for a Declaratory Ruling for the construction, maintenance and operation of a 45 megawatt trash-to-energy electric generating facility and associated equipment* proposed for Plainfield (the “Petition”). The Petition fails to satisfy the requirements for a declaratory ruling pursuant to Conn. Gen. Stat. § 16-50k(a) and is further insufficient under Conn. Gen. Stat. § 22a-20a. Instead, should Petitioner seek to proceed it should be ordered to file an application for a full Certificate of Environmental Compatibility and Public Need (a “Certificate”) review of the subject facility and to follow all the statutorily required steps, specifically the

environmental justice requirements set forth in Conn. Gen. Stat. § 22a-20a, that must precede the filing of such an application.

More specifically, as established by the Petition itself and for the reasons hereinbelow, the subject facility (the “Facility”) will unquestionably have a substantial adverse environmental impact such that the Council must determine whether the Facility will have a “public benefit” pursuant to Conn. Gen. Stat. § 16-50(c)(1), after a full vetting of all relevant factors including without limitation “neighborhood concerns” as set forth in the Council’s statutes *The Public Utility Environmental Standards Act*; Conn. Gen. Stat. § 16-50g *et seq.* (“PUESA”). Further the Petition does not establish that it will meet all air and water quality standards of the Connecticut Department of Energy and Environmental Protection, which is also a condition prerequisite under 16-50k(a) to the Council considering this Facility under a declaratory ruling process. Rather compliance is not at all certain as the Facility is explained in the Petition.

In addition to the foregoing and as a threshold matter, the Petition as filed is jurisdictionally deficient because the Petitioner has not complied with the environmental justice conditions precedent to filing with the Council as set forth in section 22a-20a(b)(1)(A)-(C) of the Connecticut General Statutes, which the Town asserts were not followed prior to the filing of the Petition. Resultingly, the Petition is insufficient pursuant to C.G.S. § 22a-20a(b)(6) and must not be subject to any further consideration.

II. Procedural Posture and Background Facts

The Petition was filed on August 7, 2026 pursuant to Conn. Gen. Stat. §§ 4-176(a) and 16-50k(a), for a proposed 45-MW electric generation and municipal solid waste recycling and recovery facility, including associated interconnection facilities, on approximately 81.2 acres between Norwich Road (Route 12) and Black Hill Road (Route 14) in the Town (the “Property”).

Petition pg. 1. The Property includes a currently active sand and gravel quarry comprising 58.6 acres. Petition at pg. 6. More particularly, the Petitioner relies on Conn. Gen. Stat. § 16-50k(a) for its request that the Council approve the Facility via a declaratory ruling, as a “grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, so long as such project meets air and water quality standards of the Department of Energy and Environmental Protection.” *Id.*

Notwithstanding such reliance and as demonstrated by the Petition, the Facility would be far larger and more complex (and would therefore have a far greater adverse environmental impact), than the typical distributed resources project evaluated by the Council in a declaratory ruling proceeding; many if not most are passive solar facilities. Furthermore and per the Petition’s cover letter, the Facility would be the “*first* totally integrated municipal solid waste recycling recovery complex *proposed in the United States.*” (Emphasis added). The Facility’s novel technology, combined with its complexity and its numerous substantial environmental impacts, require the Council review it in a full Certificate Proceeding.

For example, “[t]he proposed [Facility] will recycle and convert municipal solid waste (MSW) into renewable fuels to produce renewable (pipeline grade) natural gas, food-grade liquid carbon dioxide (CO₂), and cleaned, low-Btu gaseous fuel (synthesis gas, or syngas) to produce renewable electricity in a gas-fired boiler. . . . The Facility will be designed to have an average daily acceptance rate of 1,800 tons (typically 5-days per week), with an expected maximum acceptance rate of 2,500 tons per single day of mixed MSW from Connecticut.” Petition pg. 3.

To accomplish this, the Facility would be “comprised of three major ‘plants’ working together - the MSW receiving Bulk Handling System (“BHS”), a separation, recycling and Refuse Derived Fuel (“RDF”) and organics conversion plant, an adjacent Anaerobic Digestion Plant to

produce Renewable Natural Gas (“RNG) and food-grade CO₂, and an RDF Gasification Unit with gasifiers, syngas cooling and cleaning, and a boiler that produces steam which generates non-fossil fueled electrical energy for distribution by the local utility. The Facility will receive raw residential MSW collected from various CT municipalities, delivered by contracted specialty waste haulers.” Petition at pg. 69.

The Facility would also include a new 13.8/115 kV substation owned by the Petitioner, connected to a 115 kV switchyard, transformer and transmission interconnection owned by Eversource, which per the Petition would be the subject of a separate filing to the Council. Petition pg. 77. A 115kV transmission line would also be part of the Facility. Petition Exhibit O.

The MSW processed by the Facility would “[consist] of mixed residuals of food waste, packaging, and purchased goods including ferrous and non-ferrous metals, glass, electronics, plastics, paper and cardboard, and organic matter, all more commonly referred to as household trash.” Petition at pg. 10. Per the Petition, “[t]he SMART process can be thought of as a household trash disassembly sequence, whereby recyclables (such as glass, metals, and electronics) are extracted from raw MSW, and the remaining waste is separated into organics and RDF which is thereafter reduced to clean gaseous fuels to produce renewable energy.” Petition pg. 10-11.

Once received at the Facility, “MSW will be unloaded onto the recessed tipping floor for processing. . . . One or more cranes will be used to manage, sort, remove reject items, and feed accepted MSW to one of two feed hoppers to the separation process. . . . The sortation plant consists of two parallel “waste” disassembly lines. This system will incorporate both manual and mechanical sorting to separate out recyclable materials from the deliveries of raw MSW.” Petition at pg. 12.

Also, “[t]he Facility will incorporate anaerobic digestion of MSW-derived organics. . . in two sealed anaerobic digesters. . . . The anaerobic digestion unit is designed to handle eight short

tons per hour (based on 24 hours per day/7 days per week operation) of digestible organic waste. (Emphasis added). The end products are digestate, proposed to be used as a landfill alternate daily cover (ADC), RNG, and food grade CO2.” Petition at pg. 13.

The Facility’s produced RNG would be reinjected into the local distribution company pipeline system. Petition at pg. 20. The Petition notes that “[o]ccasionally, during startup, shutdown or malfunction, it will be necessary to vent the . . .RNG, if it is not of sufficient quality to co-mingle with pipeline natural gas, or to evacuate a portion of the system. Petition at pg. 33.

In addition to municipal solid waste, the Facility “would receive and use various solid materials within its processes, to be delivered in enclosed trucks via sealed pneumatic unloading systems. During delivery, dry granular materials such as sand, limestone, sodium bicarbonate, and powdered activated carbon will be loaded into storage silos, where these materials will then be dispensed via various enclosed metering conveyors as needed to achieve system operations and emissions control requirements.” Petition at pg. 16.

The Town notes several issues with the statements above and Petitioner’s Facility. First, as the Council knows, RDF is not new to the United States as Petitioner repeatedly asserts. Petition, pgs. 5, 9. As the Council also knows, RDF is not a natural state of MSW, nor is it “clean”. Petition, p. 10. It is a processed state that the Council and the State are all too familiar with. Further contrary to the history of RDF recited by Petitioner is the incorrect assertion that it is being sited as a “replacement for and significant improvement upon the former Materials Innovation and Recycling (MIRA) mass burn incinerator.” Petition pg. 3. As the Council knows, MIRA’s facility was an RDF-fueled facility, with waste processed first as RDF in the waste-processing facility and then it was conveyed to the power block facility. The issues associated with RDF were well-documented, for which MIRA wrestled with over the years. Explosions, shutdown episodes,

deliveries of impermissible and unacceptable wastes found on the conveyors prior to and/or during shredding were all issues confronted by MIRA and well-documented. The handling, storage and diversion of the MSW while the RDF was repaired were all issues that had to be dealt with. The Petitioner certainly doesn't address (or even mention) the potential for any such operational deficiencies as it wrongly focuses on and asserts that its waste processing facility, with this RDF, is "first-of-its-kind" and is expected to become a "new standard". Petition, p. 20. Simply put, it is not. Connecticut has experience with this type of waste processing facility and SMART's claims need to be fully analyzed as to whether it will operate in compliance with law.

Second, the Petitioner incorrectly describes and distinguishes itself from the other waste-to-energy facilities, ostensibly to position itself that it is more consistent with State policy and better at contributing to the reliability of the state's electric supply. However, all prior waste-to-energy projects were in furtherance of the energy policy that existed at the time of their Certificate proceedings, contributed to system reliability and all were in compliance with the prior version of the State's Comprehensive Materials Management Strategy. No stark or substantive dissimilarity exists whereby SMART should be allowed to bypass the more searching review associated with a Certificate proceeding.

Third, Petitioner's additional arguments that it will meet DEEP's air and water quality standards are simply promises and platitudes. Putting aside the RDF component, much of the proposed closed gasification facility is not only new to Connecticut and the United States, but per the Petition, there is only one in commercial operation in the world, in Lahti, Finland. Aside from journalistic references praising it, there are no references relating to its actual operational limits and history. Nor is there any meaningful, comparative description of whether the differences associated with Connecticut's solid waste source separation will impact the operation of the facility

as Finland has much different, more refined and categorical source separation requirements than does Connecticut. Consequently, it is unknown as to how the Lahti facility is operating and whether its operational metrics are similar to what Petitioner proposes and will be acceptable to and successful in Connecticut. At MIRA, RDF suffered operationally due to the nature of the mixed MSW stream. Put another way, Petitioner has not demonstrated whether compliance with Connecticut regulatory standards will exist or not, or what the issues will be for purposes of DEEP permitting. Many applications have either recently been filed or not yet filed. The Town, as the host community, and its citizenry deserve a full hearing and certificate proceeding to fully vet and understand where the challenges are (or are not).

In addition to solid waste and facility operations, air issues certainly exist. By way of example, and notwithstanding the containment system for the aqueous ammonia (Petition, page 27), ammonia is highly volatile and may be released to the atmosphere from, among other things, leaks or spills.¹ Therefore, the proposed containment system does not guarantee that ammonia would not be released to the environment in the event of a leak or spill.

More generally, potential sources of air emissions and/or odors from the Facility would include without limitation the following: Facility stacks, MSW receiving and separation buildings, the anaerobic digester (including the venting of RNG) and the high-pressure boiler/steam turbine generator. Petition pgs. 31-35; 42. A number of pollutants ranging from NO₂, CO, SO₂, to particulate matter to VOCs and hazardous air pollutants are identified. While some of these emissions are asserted to achieve compliance, others are not. The Petition describes how “[a] preliminary modeling analysis was completed for the proposed project. . . and that **the preliminary**

¹ www.ncbi.nlm.nih.gov/books/NBK598711

The Town requests that the Council take administrative notice of this publication.

modeling runs did not pass the [Significant Impact Level] for the following pollutants: 1-hr Nox, 1-hr SO₂, 24hr SO₂, and annual SO₂.” (Emphasis added) Petition at pg. 36. While the Petition attempts to explain these exceedances on the basis that “further refined modeling may be required,” these results clearly demonstrate that compliance with State regulation may be an issue such that a declaratory ruling is not jurisdictionally appropriate under C.G.S. § 16-50k(a) since the question is open as to whether the Project will meet the air standards of DEEP. A Certificate proceeding is more appropriate and the need for close scrutiny is required which would certainly require expert testimony and a searching review of the data and conclusions presented by the Petitioner.

With respect to wetlands, the Facility footprint includes approximately 45 acres of wetlands. There are also emergent wetlands present. Petition pgs. 44-45.

With respect to water quality, two class A waterbodies – Sugar Brook and Horse Brook – border or adjacent to the Facility site. Class A waters support the following designated uses – potential drinking water, fish and wildlife habit and recreational use – among others. The subject Property is also located within a GA groundwater area, which means that it is suitable for drinking without treatment. Petition at pg. 37. Further there are two areas of higher quality groundwater (Class GAA) that warrant further review rather than reliance on Petitioner’s statement that neither are within the area influenced by the Property. With regard to wastewater, the Facility will generate various surface and groundwater discharges, including 4,000 gallons daily of sewage. Petition pgs. 39-40. Private sources of water are abundant in this area and Petitioner has not demonstrated how this watershed will be maintained and the Town’s homeowners who draw upon this aquifer will be protected.

Based on the aforesaid description, it is clear that the proposed Facility would be a large industrial project having many actual and potential adverse environmental impacts and it is far from known whether it will comply with the existing regulatory requirements. Also, not insignificantly, it is proposed in a residential zoning district.

Beyond the Facility's size and scope, its operations would be much more expansive than those of a typical distributed resources project; and thus having a much greater environmental impact. For example the Facility would have an average throughput of 1,800 tons of MSW per weekday, with a maximum of 2,500 tons per single day. Based on an average load of 15 tons per truckload, this translates to an average of **120 loads per weekday of MSW**. (Emphasis added) Petition pg. 73. The mix of refuse trucks utilizing the Facility would include "residential front or rear load trucks, roll-off boxes, dump trailers and walking floor. . . trailers. . . . [The Facility] will also be able to accept **self-unloading 40-foot trailers and 40 ft dump bodies originating at off-site transfer stations**. (Emphasis added) Petition at pg. 12. Furthermore, because the primary access to the Facility for these heavy trucks would be via Norwich Road, this means (again, on average) that 120 heavy trucks (including those utilizing Interstate 395) would of necessity pass through *several* residential neighborhoods *on a daily basis*. Petition pgs. 6; 72.

Additionally, the two main roads in the vicinity of the Property – Routes 12 and 14 – support daily average trips of 6,500 and 3,300 respectively. Petition Table 10. It is clear that expert testimony as to the Facility's traffic impacts will be necessary to evaluate these impacts.

With respect to wildlife impacts, the State Natural Diversity Database listed thirteen state-listed species and three critical habitats mapped within or in close proximity to the property. Petition's State-Listed Species Report (Exhibit I to the Petition) lists (2) endangered species and (4) species of special concern (animals and fish); and (3) endangered species and (4) species of

special concern (plants) at the Facility site. There are also three critical habitats mapped within or in close proximity to the Property. Petition pgs. 45, 65. All these require further review and evaluation as to impacts.

With respect to anticipated noise impacts from the Facility, Table 6 to the Petition (“Equipment Sound Levels”) lists numerous types of Facility equipment with noise levels above 90dB, with the highest being 117 dB (shredders).

Right now, the filing is insufficient and lacking on all these points. And, given that the Petitioner erred and is wrong on the status of RDF in this country and, particularly, in Connecticut, what else is or could Petitioner be wrong on? A searching review of all the underlying facts, and project comparisons is required. Additionally and as explained herein, the sum of the aforesaid impacts unquestionably adds up to a substantial adverse environmental impact, such that the Council should review the Facility in a full Certificate proceeding, so that it can make the necessary determination as to whether the public benefit of the Facility outweighs these impacts.

III. Law and Argument: The Council must conduct a full Certificate Proceeding for the Facility, by Reason of its Composition and its Environmental Impacts:

A. Jurisdiction and statutory framework

PUESA, codified at Conn. Gen. Stat. § 16-50g *et seq.*, establishes two pathways for Council approval of certain utility-type “facilities.” The default rule pursuant to Conn. Gen Stat. § 16-50k(a) is that “no person may commence site preparation, construction, or modification of a facility that *may, as determined by the council, have a substantial adverse environmental effect* without first obtaining a Certificate of Environmental Compatibility and Public Need. (Emphasis added) Pursuant to Conn. Gen. Stat. § 16-50i(a), the “Facilities” subject to the Council’s jurisdiction include the following: an electric transmission line of a design capacity of sixty-nine

kilovolts or more; any electric generating facility using any fuel;² and any “electric substation. . . designed to change or regulate the voltage of electricity at sixty-nine kilovolts or more to connect two or more electric circuits at such voltage, which substation. . . may have a substantial adverse environmental effect.”

Notwithstanding the above language, pursuant to Conn. Gen. Stat. § 16-50k(a)(2)(B), the Council shall approve by declaratory ruling, certain facilities including “any customer-side distributed resources project or facility or grid-side distributed resources project or facility with a capacity 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, [and] (ii) the council does not find a substantial adverse environmental effect” (the “Exception”). It is this Exception to the Certificate requirement that the Petitioner relies upon in submitting its Petition, rather than an application for a full Certificate proceeding.

That is not the end of the inquiry, however. If the Council determines that a distributed generating facility otherwise eligible for the Exception would have a substantial adverse environmental impact, then the Council must hold a full Certificate proceeding to determine whether the facility would have a public benefit which would outweigh such impact. *Not Another Power Plant v. Connecticut Siting Council*, 340 Conn. 762, 797-798 (2021).

For the following reasons, the Facility is ineligible for the Exception and must therefore go through a full Certificate proceeding before the Council.

² There are exceptions to this definition for certain generating facilities described in subdivision (a)(3) of the statute; however, these exceptions are inapplicable to the Facility.

B. The Facility is in fact a Combination of Several Statutory “Facilities”; some of Which are Ineligible for a Declaratory Ruling.

As explained above, the Exception is available for certain generating facilities of up to sixty-five megawatts, and the proposed Facility is purportedly below that threshold. However, the Facility will include, in addition to its electric generating component a “13.8/115 kV substation. . . owned and operated by [the Petitioner].” Petition at pg 77. This substation, in turn, will also contain “the outgoing 115kV transmission line.” *Id.* Thus, each of the substation and the transmission line components of the Facility, themselves constitute distinct statutory “facilities” per Conn. Gen. Stat. § 16-50k(a) for which a Certificate is required and for which the Exception is not available.

It is axiomatic that in Connecticut a statute must be applied as written. This is the plain meaning rule. The plain meaning rule is codified at Conn. Gen. Stat. § 1-2z, which provides in pertinent part that “[t]he meaning of a statute shall, in the first instance, be ascertained from the text of the statute itself and its relationship to other statutes.” This requirement applies whenever, as is the case here, that the subject statute is “plain and unambiguous.” *Id.* The Connecticut Supreme Court has recently confirmed that “in construing statutes, we follow the plain meaning rule.” *Centrix Management Co. v. Fosberg*, 349 Conn. 765, 771 (2024) (Internal citations omitted).

Here, the language of Conn. Gen. Stat. § 16-50k(a) is clear and unambiguous as to the Certificate requirement for the above Facility components. Consequently, the Council must review the underlying Facility, for which these components depend, under a full Certificate proceeding as one, cohesive unit.

C. The Sum Total of the Environmental Impacts of the Facility Collectively Constitute a Significant Adverse Environmental Impact that the Council Must Balance Against the Facility’s Public Benefit.

As described above and in the Petition, the Petitioner is proposing a massive and first-of-its-kind in the United States, integrated industrial facility; including MSW separation, anaerobic digestion, combustion and gasification processes; combined with a 45 mW electric generation facility with a 115-kV transmission interconnection to the electric grid. The MSW processed by the Facility will average 1,800 tons per weekday, up to a maximum 2,500 tons/day. The Petitioner acknowledges in its Petition numerous and significant actual and potential environmental impacts from the Project, including modeled exceedances of air quality standards for NO_x and SO₂, and the potential for releases of aqueous ammonia; as well as with respect to odors, water resources, wetlands and watercourses, wildlife, noise and traffic. It is unquestionable that the scale of the proposed Facility, combined with these impacts, add up to a significant adverse environmental impact requiring a full Certificate proceeding. It is simplistic to simply rely upon Petitioner's premise – that it will comply with all the regulations. Various applications have been filed with the Connecticut Department of Energy and Environmental Protection and are in the very preliminary stages of review and all may not yet be filed. At this time, there is no way of ascertaining whether it will comply or not; what the conditions or exceptions will be. The process is at its nascent stage, therefore, a full Certificate proceeding should be required to fully vet the Facility and its environmental impacts.

This conclusion is further bolstered by a comparative review of current matters pending before the Council. There are, as of this writing, eleven pending petitions for declaratory ruling (including this Petition). Of the other ten petitions: (i) two are for either modifications to a telecom facility or the construction of a small telecom facility; (ii) six are for small solar voltaic facilities of less than 5 mW; and (iii) two are for small battery storage facilities. The contrast between these facilities and this Facility could not be more stark.

On the other hand, one of the four current Certificate proceedings before the Council is for a generating facility with many parallels to this Facility; being similar in size (50mW versus 45 mW), and also including a substation and switchyard.³ It is also worth noting that this application is for a solar facility with ostensibly far fewer environmental impacts than the subject Facility.

These facts also support the conclusion that a full Certificate application is necessary in this case.

D. The Extensive Environmental Impacts of the Facility will Require the Opportunity for the Full Review Available in a Certificate Proceeding.

In a Certificate proceeding, the Council must consider:

“[t]he nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, (i) electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, (ii) ecological balance, (iii) public health and safety, (iv) scenic, historic and recreational values, (v) agriculture, (vi) forests and parks, (vii) air and water purity, and (viii) fish, aquaculture and wildlife.”

Conn. Gen. Stat. 16-50p(a)(3)(B).”

In addition, for a generating facility such as the Facility, the Council cannot approve a Certificate “unless it finds and determines a public benefit for the [F]acility and considers neighboring concern with respect to factors” including those in the paragraph above, including public health and safety. Conn. Gen. Stat. 16-50p(c)(1).

³ Brookfield Husky Solar, LLC Application in Docket No. 550; at pg. 4. While the switchyard in the Brookfield Application would be developed by the applicant (as opposed to Eversource in this case), the two facilities share other statutory components – i.e., a substation – requiring a Certificate proceeding.

In contrast, the factors for the Council's consideration in a Declaratory Ruling petition are much more limited. The Council must approve such a petition unless it finds a substantial adverse environmental impact. Conn. Gen. Stat. 16-50k(a)(2)(B)(ii). Furthermore, while the Council is required to consider "other state laws and municipal regulations **as it shall deem appropriate**" (Conn. Gen. Stat. § 16-50x(a) (Emphasis added)); it is only statutorily and specifically obliged to consider in a Declaratory Ruling petition "air and water quality standards of [the CT DEEP]." Conn. Gen. Stat. 16-50k(a)(2)(B)(i). *See, FairwindCT v. Connecticut Siting Council*, 313 Conn. 669, 703-704 (2014) (While the Council may consider factors other than state air and water requirements in a petition proceeding, it is not statutorily obligated to do so). Such a limited review, were the Council to engage in such, would clearly be inadequate to vet all of the actual and potential adverse impacts of the Facility.

It is also clear, given the discussion in the Petition itself that the environmental issues and impacts are numerous, extending well beyond the air and water quality standards. The numerosity and magnitude of the Facility's environmental impacts, which the Petitioner unambiguously identifies, clearly indicates that expert testimony will be necessary on a wide range of topics for a full and proper review of these impacts.

Finally, it is worth noting that it is only in a Certificate proceeding that the Town would be able to recover its expenses of participation (including expert fees) of up to \$40,000 pursuant to Conn. Gen. Stat. § 16-50l(a). While the availability of such reimbursement is not itself a substantive reason to conduct a Certificate proceeding for the Facility, the fact that the legislature allows such reimbursement to host municipalities concerning facilities requiring expert testimony, underscores the importance of thoroughly reviewing such facilities in a full Certificate proceeding. Sidestepping the Certificate proceeding to a declaratory ruling for a facility of this scope, breadth

and magnitude does a disservice to the Town and its residents. Full consideration is required for such a “first-of-its-kind” project.

By way of further comparison, in 1984 the Council issued a Certificate for the South Meadows waste-to-energy facility (Docket No. 46). The South Meadows Facility was an RDF facility which processed and converted municipal solid waste to a uniform fuel prior to combustion. Like Petitioner’s proposed Facility, the South Meadows Facility was comprised of multiple component parts, including a waste processing facility and a power block. It was designed to process 2,000 tons per day, compared to Petitioner’s proposed average of 1,800 tons but lower than its maximum proposed acceptance rate of 2,500 tons. It had a 45 MW capacity per turbine; the SMART Facility also is a 45 MW facility. The comparisons between the two facilities are numerous and the Council conducted a searching review of all impacts, including air, odor, noise, water and waste impacts.⁴ Petitioner’s first-of-its-kind facility deserves and should have a similar searching and substantive review.

E. Recent Amendments to PUESA Underscore the Need for a full Certificate Review of the Facility

The Connecticut Legislature recently amended PUESA to create a new category of “facilities” which, effective October 1, 2026, will be required to justify the need for such facilities. Because this new category of facilities would include the Facility, this legislative change provides additional support for a full and comprehensive review of the Facility by the Council.

⁴ Of further note, in addition to the South Meadows facility, all MSW-to-energy facilities at inception have all gone through the Council’s Certificate process – i.e., Bridgeport (Docket 49), Bristol (Docket 52), Preston (Docket No. 74), Lisbon (Docket 110).

Section 17 of CT Public Act 26-127 (the “Public Act”) amends Conn. Gen. Stat. § 16-50i(a) to create an additional category of facilities subject to the Council’s jurisdiction; i.e. “(A) an electric transmission line and any associated equipment. . . or (B) any electric substation. . . that is . . . the installation of a new facility, and that is designed to. . .accommodate the interconnection of one or more future sources of generation of any type that is not yet the subject of an interconnection agreement. . . .” Because and as described above, the Facility itself would include both a transmission line and a substation, the Facility would fit in this additional category of “facility.”

With respect to such new facilities, Section 18 of the Public Act amends Conn. Gen. Stat. § 16-50p(c)(3) to require the Council to:

consider whether such facility addresses anticipated future electric grid reliability needs, including the need for additional generation on the electric grid to maintain future resource grid reliability needs. Any future reliability needs identified. . .shall be supported by (A) any study or finding of the regional independent system operator. . ., the Integrated Resources Plan. . ., or. . . through an advisory opinion of the [DEEP Commissioner] stating that such facility is in the best interest of ratepayers in the state that is submitted in the relevant proceeding of the [Council].

The fact that the Facility would be subject to these new requirements if its submission to the Council were to occur less than two months from now, is yet another example of why the Facility should be reviewed in a full Certificate proceeding.

IV. Law and Argument: The Council Currently Lacks Jurisdiction over the Petition as it is “insufficient” under the Environmental Justice Statutes

In addition to the deficiencies in the Petition set forth above and as a threshold matter, the Council lacks jurisdiction over the Petition due to a fundamental procedural deficiency.

Consequently, it must be dismissed and refiled even if the Council decides that the applicant may proceed as a Petition proceeding pursuant to Sections 4-176 and 16-50k of the general statutes.

As the Council is aware, Plainfield is an environmental justice community pursuant to Conn. Gen. Stat. § 22a-20a(1) and the framework of Section 22a-20a of the general statutes must therefore be followed. The Petitioner knows the Town's status but has not followed the statutory prerequisite as to this Petition. Rather it has glossed over the environmental justice requirements for purposes of Council compliance and has instead recast as compliance the process it followed for purposes of its DEEP permit applications.

There can be no dispute that section 22a-20a applies to this facility as it is an "affecting facility" under the statutes. And, the statutory framework applies to the Council as the Petitioner seeks "siting approval" from the CSC proceeding. C.G.S. § 22a-20a(b)(1). This process involves a number of pre-application steps, none of which was done specifically for the Petition. For example, under Conn. Gen. Stat. § 22a-20a(b)(1)(A)-(C), and in general terms, *the applicant is to file with and obtain the council's approval of the public participation plan before filing* for any approval, *prior* consultations are to occur with the Town's CEO to evaluate the need for a community benefit agreement, and only after these prerequisites occur, various submissions are made to the Council. None of this was done relative to the approval the Petitioner is seeking from the Council. Consequently, this application must be deemed insufficient under C.G.S. § 22a-20a(b)(6).

The Petition does contain evidence of compliance with the environmental justice requirements but only for the DEEP applications that occurred and which were initiated well over a year ago, in March 2025, if not earlier. Petition pgs. 21-22. As purported evidence of compliance with the Council requirements, the Petitioner engages in this discussion and submits as Exhibit Q

its Environmental Justice Public Participation Plan “as approved by DEEP.” Substituting the DEEP environmental justice requirements and the DEEP approval, in lieu of the Council itself receiving and approving the applicant’s environmental justice participation plans is not allowed. In fact, the statute specifically only contemplates a piggyback concept when the Council goes first. In brief, section 22a-20a(b)(7) allows the reverse *only*:

In the event that the Connecticut Siting Council has approved a meaningful public participation plan or public participation report, as applicable, concerning a new or expanded proposed affecting facility, as applicable, and an informal public meeting has been held in accordance with this subsection, the Department of Energy and Environmental Protection may waive the requirement that an additional informal public meeting be held in accordance with this subsection.

There is no statutory provision allowing for the reverse. No evidence is submitted nor can be submitted now that such plan was approved by the Council or that any of the prerequisites to the Petition regarding CSC prior approval were obtained. Any plan submission and approval now, or outreach to the Town now, is insufficient and statutorily flawed. Consequently, the Petition must be rejected as insufficient under C.G.S. § 22a-20a(b)(6).

V. Conclusion and Requested Relief

For the above reasons, it is unquestionable that the Facility’s novel design, scope and complexity; combined with its effects on the surrounding community, as well as its numerous actual and potential adverse environmental impacts; require the Council to review the Facility via a full Certificate proceeding, with its robust opportunities for public participation, discovery, and evidentiary development (including expert testimony).

Separately and for the reasons in Section IV above, the Petition is jurisdictionally defective and must be dismissed as currently filed regardless of its ultimate procedure before the Council.

The Town therefore respectfully requests that the Council dismiss the Petition and/or direct the Petitioner to withdraw its Petition, and prior to any new filing, to cure the aforesaid Environmental Justice jurisdictional defect; and after curing such defect, refile an application for a full Certificate of Environmental Compatibility and Public Need proceeding.

Respectfully submitted,
The Town of Plainfield

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CERTIFICATION

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