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March 5, 2004

Via Hand Delivery

Mr. S. Derek Phelps
Executive Director
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Docket No. 272 – Northeast Utilities Service Company Application to the Connecticut Siting Council for a Certificate of Environmental Compatibility and Public Need (“Certificate”) for the construction of a new 345-kV electric transmission line facility and associated facilities between Scovill Rock Switching Station in Middletown and Norwalk Substation in Norwalk, including the reconstruction of portions of existing 115-kV and 345-kV electric transmission lines, the construction of Beseck Switching Station in Wallingford, East Devon Substation in Milford, and Singer Substation in Bridgeport, modifications at Scovill Rock Switching Station and Norwalk Substation, and the reconfiguration of certain interconnections

Dear Mr. Phelps:

Enclosed herewith is an original and twenty (20) copies of a Motion in the above-captioned proceeding. Please contact the undersigned with any questions you may have concerning this filing.

Mr. S. Derek Phelps
Executive Director
Connecticut Siting Council
October 21, 2003
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THE MUNICIPALITIES OF BETHANY,
CHESHIRE, DURHAM, EASTON,
FAIRFIELD, HAMDEN, MIDDLEFIELD,
MILFORD, NORTH HAVEN,
NORWALK, ORANGE,
WALLINGFORD, WESTON,
WESTPORT, WILTON, AND
WOODBIDGE

BY _____

Peter G. Boucher

PGB/pab
cc: Docket No. 272 service list

523342.1(HSFP)

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

Northeast Utilities Service

DOCKET NO. 272

COMPANY APPLICATION TO THE
CONNECTICUT SITING COUNCIL
FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED ("CERTIFICATE")
FOR THE CONSTRUCTION OF A
NEW 345-KV ELECTRIC TRANSMISSION
LINE FACILITY AND ASSOCIATED
FACILITIES BETWEEN SCOVILL
ROCK SWITCHING STATION IN
MIDDLETOWN AND NORWALK
SUBSTATION IN NORWALK, INCLUDING
THE RECONSTRUCTION OF PORTIONS
OF EXISTING 115-KV AND 345-KV
ELECTRIC TRANSMISSION LINES,
THE CONSTRUCTION OF BESECK
SWITCHING STATION IN
WALLINGFORD, EAST DEVON
SUBSTATION IN MILFORD, AND
SINGER SUBSTATION IN BRIDGEPORT,
MODIFICATIONS AT SCOVILL ROCK

Switching Station and Norwalk

SUBSTATION, AND THE
RECONFIGURATION OF CERTAIN

interconnections

March 5, 2004

**THE MUNICIPALITIES OF BETHANY, CHESHIRE, DURHAM, EASTON,
FAIRFIELD, HAMDEN, MIDDLEFIELD, MILFORD, NORTH HAVEN,
NORWALK, ORANGE, WALLINGFORD, WESTON, WESTPORT, WILTON,
AND WOODBRIDGE**

**MOTION TO COMPEL DISCOVERY RESPONSES AND TO RESCHEDULE
CERTAIN DEADLINES AND HEARINGS**

Each of the (16) above-captioned participant municipalities (the
"Municipalities"), respectfully request that the Connecticut Siting Council (the

“Council”): (1) set a deadline (the “Discovery Response Deadline”) for The Connecticut Light & Power Company and The United Illuminating Company (collectively, the “Applicants”) to respond to the Municipalities outstanding discovery requests; (2) delay certain events in this proceeding; and (3) compel the Applicants to direct their consultant General Electric (“GE”) to enter into a confidentiality agreement enabling the Municipalities to view certain materials requested from the Applicants.¹ The requested relief is necessitated by the Applicants’ failure to timely respond to the Municipalities’ outstanding discovery requests concerning critical issues in this proceeding, and is essential to the Municipalities’ rights of participation in this proceeding.

Factual Background

As of the date hereof, the Municipalities have submitted (3) sets of Interrogatories to the Applicants.

The first set of Interrogatories (the “First Set”) was submitted on January 28, 2004. The First Set contains thirty-two questions seeking information concerning the issue of undergrounding. The Municipalities requested that the Applicants respond to the First Set on or before February 16, 2004. The Applicants provided responses to 20 of the questions in the First Set on March 3, 2004. The other 12 questions still remain unanswered more than five weeks after they were submitted.

¹ The undersigned represents solely the towns of Durham and Wallingford in this proceeding. The undersigned have been authorized to submit this Motion on behalf of the Municipalities.

The Applicants' responses to the 20 questions answered were almost completely inadequate, as detailed in the attached March 4, 2004 Memorandum from the Town's experts at Synapse Energy Economics, Inc ("Synapse"). The Municipalities are particularly disadvantaged because, as Synapse notes in its Memorandum, "The net result [of the Applicants' delays] is that even after 34 days we still don't have the input data from the GE undergrounding studies in the machine readable format that we requested back on January 28th."

Moreover, GE has so far been unwilling to provide its model to Synapse for its review. It is possible that the Applicants and GE are attempting to hide the details of the model and prevent its review by the Municipalities, based upon a claim that the model is proprietary. The Council should not allow any such claim. Synapse is willing to sign confidentiality agreements to prevent the public release of any details of the relevant GE model and to commit to not using the model in any other proceeding. If GE and the Applicants refuse to provide the model to Synapse, the GE reports based on the model should be stricken, so as to prevent prejudice to the Municipalities.

The Municipalities' Second Set of Interrogatories (the "Second Set") was submitted on February 17, 2004. The Second Set contains (11) questions seeking information concerning the issue of electric and magnetic fields ("EMF"). The Municipalities requested that the Applicants respond to the Second Set on or before March 2, 2004. The Applicants have to date failed to respond to any of the questions contained in the Second Set and have not offered any explanation for that failure.

The Municipalities' Third Set of Interrogatories (the "Third Set") was submitted on February 23, 2004. The Third Set contains (7) questions seeking information concerning the issue of alternative routes. The Municipalities requested that the Applicants respond to the Third Set on or before March 10, 2004. The Applicants have not yet responded to any of the questions contained in the Third Set.

The Council has set a deadline of March 9, 2004 (the "March 9th Deadline"), for testimony relating to the subject matter of the hearings scheduled for March 23, 24, and 25, 2004. The Council has reserved the hearing scheduled for March 25, 2004, for the issue of EMF.²

The Council has tentatively scheduled hearings on April 20, 21 and 22, 2004 (the "April Hearings"), concerning undergrounding issues and Segments 3 and 4 of the Application in this proceeding, with a deadline to be set in early April for the filing of testimony concerning the subject matter of the April Hearings.

The Council further has tentatively scheduled hearings during the second half of May, 2004 (the "May Hearings"), concerning Segments 1 and 2 of the Application in this proceeding, with a deadline in early May for the filing of testimony concerning the subject matter of the May Hearings.

² The Applicant has requested a delay of the March 9th Deadline but not the hearings scheduled for March. For the reasons discussed *infra*, the Applicant's request is not acceptable.

EMF Issue

The Applicant's failure to respond to the Municipalities' Second Set by the March 2, 2004 requested date, has seriously impaired the Municipalities' ability to fully participate in the scheduled March 25, 2004 hearing on EMF issues.

Undergrounding Issue

The Applicants' failure to fully respond to the First Set by the requested date, has made it impossible for the Municipalities to prepare testimony on or before the assumed deadline for the filing of testimony for the April Hearings, thus preventing the Municipalities from presenting a case-in-chief on the issue of undergrounding. That failure will also have a substantial negative impact on the Municipalities' ability to respond to the Applicants' case-in-chief concerning the extent to which the Facility in this proceeding can be installed underground.

Given the amount and the complexity of the data requested in the First Set, it will require a minimum of six weeks for the Municipalities' analysis of that data and the preparation of a case-in-chief on the issue of undergrounding. Although a deadline for the filing of testimony concerning the subject matter of the April Hearings has not yet been set by the Council, the Municipalities assume that this deadline will be at least two weeks prior to the April Hearings. Assuming *arguendo* that this deadline will be set on or about April 6, 2004, it will be impossible for the Municipalities to both prepare their case-in-chief on the issue of undergrounding and prepare cross-examination on that issue, in time for the April Hearings.

Furthermore, the Applicants' failure to respond to the First Set will have a substantial negative impact on the Municipalities' ability to prepare testimony and cross-examination for the May Hearings (under the schedule currently contemplated), because the Applicant's failure to respond will require the Municipalities to simultaneously prepare for both the April Hearings and the May Hearings.

Requested Relief

Each of the Municipalities has the right to party status in this proceeding. See, Conn. Gen. Stat. §§ 16-50n(a)(2) and 16-50l(b)(1). Furthermore, Conn. Gen. Stat. § 16-50o(a) provides in pertinent part that “[e]very party or group of parties as provided in section 16-50n *shall have the right to present such oral or documentary evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts.*” (Emphasis added). The Applicants’ failure to respond to the Municipalities’ outstanding discovery requests will deny the Municipalities their statutory right to present their case and conduct cross-examination on the aforesaid issues, unless the Council grants the relief requested *infra*. More fundamentally, the failure of the Council to grant the requested relief will deny the Municipalities a “full and true disclosure of the facts,” to which they are entitled as communities that may bear the burden of the Facility under review in this proceeding.

For the foregoing reasons, the Municipalities respectfully request that the Council:

- (i) require the Applicants to respond fully and completely to all of the Municipalities’ outstanding discovery requests (including complete responses to the 20 questions in the First Set referenced *supra*) by a date certain (the Discovery Response Deadline);
- (ii) postpone the March 9th Deadline to a date not sooner than (2) weeks after the Discovery Response Deadline;
- (iii) postpone the hearing concerning EMF, currently scheduled for March 25, 2004, to a date not sooner than (2) weeks after the new deadline for the filing of testimony described under roman numerette (ii) *supra*;

(iv) set the deadline for the filing of testimony concerning the subject matter of the April Hearings, to a date not sooner than (6) weeks after the Discovery Response Deadline;

(v) postpone the April Hearings (as tentatively scheduled), to start not sooner than (2) weeks after the deadline for filing testimony described under roman numerette (iv) *supra*;

(vi) delay the deadline for the filing of testimony concerning the subject matter of the May Hearings, to a date not sooner than (10) weeks after the Discovery Response Deadline;³

(vii) postpone the May Hearings, to start not sooner than (2) weeks after the deadline for filing testimony described under roman numerette (vi) *supra*; and

(viii) order the Applicants to direct GE to enter into an appropriate confidentiality agreement, which would permit the Municipalities to obtain the GE materials requested in the First Set.

³ Note that this would not delay the May filing and hearing dates by more than (4) weeks if the Council acts quickly.

Respectfully submitted,

THE MUNICIPALITIES OF
BETHANY, CHESHIRE,
DURHAM, EASTON,
FAIRFIELD, HAMDEN,
MIDDLEFIELD, MILFORD,
NORTH HAVEN, NORWALK,
ORANGE, WALLINGFORD,
WESTON, WESTPORT,
WILTON, AND WOODBRIDGE

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CERTIFICATION

This is to certify that on this 5th day of March, 2004, a copy of the foregoing was either mailed, postage prepaid, or hand-delivered to:

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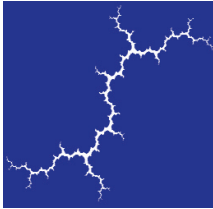
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Peter G. Boucher



Synapse
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Memorandum

To: Peter Boucher, Julie Donaldson Kohler, David Ball
From: David Schlissel
Date: March 4, 2004

Subject: Review of the Applicants Discovery “Responses” to Towns First Set of Questions

We have now reviewed the Applicants March 2nd responses to the First Set of discovery questions submitted by the Towns on January 28, 2003. These responses do not provide very much in terms of data or documents and it took the Applicants 34 days to provide these non-responsive answers.

Questions 1, 2, 3, 11, 12, 13, 15, 16, and 17 of the Towns First Set all asked for the data used in the GE Harmonic Studies in machine readable format. The Applicants did not provide the requested data in the requested machine readable format, saying that the model is proprietary. However, a letter from GE, dated February 10, 2004 to Brent Oberlin at NU that was provided in response to Question 1 of the Towns First Set indicated that the data was non-confidential and had been provided to the Applicants on CDs.

There are several significant points that need to be emphasized about the Applicants answers to these questions:

1. It took the Applicants more than 3 weeks to put Peter Boucher in touch with GE about obtaining access to the model. That should have been done much sooner because the Applicants knew that the GE harmonics model was proprietary. I understand that GE still has not agreed to provide the model to the Towns for our review.
2. It appears that the data used in the model is non-proprietary. Consequently, why have the Applicants not provided that data to us in the requested machine readable format. Also, according to the GE February 10th letter to Brent Oberlin at NU, the input data for the GE studies apparently was provided in a printed format in the reports. If that data can be provided in a printed format, there is no reason why it can't be provided in a machine readable format, as well.

The net result is that even after 34 days we still don't have the GE model or the input data from the GE for the undergrounding studies in the machine readable format that we requested back on January 28th.

The Applicants response to Question 5(b) of the Towns First Set, noted that moving the resonance above the 2nd harmonic could be done a number of ways, including, changing “the number of switched capacitor banks in the area.” However, the response to part (d) of that question did not explain why this possible change had not been studied. Therefore, the response to part (d) is not complete.

Questions 7, 9, 29 of the Towns First Set asked for copies of specific papers referenced in the GE studies that had been provided as part of the Applicants’ Supplemental Filings. The Applicants took 34 days to tell us we have to ask IEEE for copies of these papers. Clearly, this could have been done almost immediately after the Applicants received the discovery questions.

The Applicants’ responses to Questions 22 and 23 of the Towns First Set apparently provided on a CD data on load flow studies. It should not have taken the Applicants 34 days to copy this data from a computer onto the CD(s).

Finally, Questions 4, 10, 18, 19, 21, 24, 26, 27, 28, 30, 31, and 32 of the Towns First Set still have not been answered after 34 days and the Applicants have not stated any objections to providing any of the information requested in these questions.

All in all, the Applicants’ answers to the Towns First Set of Discovery were very late and provided very little data and information in terms of actual information about the GE undergrounding studies.