

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

THE CONNECTICUT LIGHT AND POWER	:	DOCKET NO. 272
COMPANY AND THE UNITED	:	
ILLUMINATING COMPANY APPLICATION	:	
FOR A CERTIFICATE OF ENVIRONMENTAL	:	
COMPATIBILITY AND PUBLIC NEED FOR	:	
THE CONSTRUCTION OF A NEW 345-KV	:	
ELECTRIC TRANSMISSION LINE AND	:	
ASSOCIATED FACILITES BETWEEN THE	:	
SCOVILLE ROCK SWITCHING STATION IN	:	
MIDDLETOWN AND THE NORWAL	:	
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	:	
WALLINFORD, 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	:	JULY 19, 2004

**BRIEF OF RICHARD BLUMENTHAL, ATTORNEY GENERAL FOR
THE STATE OF CONNECTICUT, CONCERNING NOTICE TO
MUNICIPALITIES NOT PARTY TO THIS PROCEEDING**

Richard Blumenthal, Attorney General for the State of Connecticut (“Attorney General”), hereby submits this letter is in response to the request by the Connecticut Siting Council (“Council”) dated June 10, 2004 that participants in this proceeding offer their view on the issue of notification requirements relative to a route for the transmission line that was not presented by the Applicants in this proceeding, the Connecticut Light and Power Company and the United Illuminating Company (“Applicants”). This inquiry was prompted by several alternate routes that were not proposed by the Applicants and that would carry the transmission lines that are proposed in the present case through

towns that are not affected by the proposed or alternate routes set forth in the application to the Council.

For the reasons fully explained herein, the Attorney General respectfully submits that the Council may not approve a route that is located in a town that was not served with an application pursuant to Conn. Gen. Stat. § 16-50l(b) and has not had the opportunity to participate fully in the siting process established by the Public Utility Environmental Standards Act (“PUESA”), codified at Conn. Gen. Stat. § 16-50g, et seq. While the Council may consider routes that go through municipalities that were not entitled to be served with copies of an application, it may do so only for the purpose of evaluating and approving or denying the routes proposed in the application. Should the Council reject the routes proposed by the applicant, an entirely new application must be filed if other alternate routes, not specifically set forth in the original application, are proposed, with service of the new application on all municipalities that may be traversed by any portion of the proposed new route(s). The Council cannot approve the siting of the proposed transmission lines in municipalities that were not served with an application under the PUESA.

I. BACKGROUND

In their application, the Applicants proposed a new 69 mile 345 kV electric transmission line to run that would cross 18 municipalities in Middlesex, New Haven and Fairfield counties. The municipalities are Middletown, Haddam, Durham, Middlefield, Meriden, Wallingford, Cheshire, Hamden, Bethany, Woodbridge, Orange, West Haven, Milford, Stratford, Bridgeport, Fairfield, Westport and Norwalk. Consistent with the

requirements of the PUESA, the Applicants served their application on each municipality in which the transmission line was proposed to be located.

During the course of this proceeding, however, different routes emerged for consideration, including the East Shore route. Although the specific placement of an East Shore route has yet to be firmly determined, an East Shore route would carry the proposed electric transmission lines through municipalities that were not required to be served with the application because the Applicants' proposed route did not go through their towns. These municipalities may include some or all of the following: North Haven, North Branford, Branford, East Haven and New Haven. See Presentation by Applicants Regarding the East Shore Route and Black Pond at the Hearing on June 2, 2004, map entitled "Segment 2: Beseck to East Devon Via East Shore." On June 2, 2004, when the Council heard evidence on the East Shore route, Chairman Katz requested that participants in this proceeding advise the Council on the question of whether and how the Council could consider a route that was not proposed by the Applicants and that would carry the proposed facility through municipalities that are not part of this proceeding. The Council then reiterated this request in a notice issued on June 10, 2004.

II. DISCUSSION

A. PUESA

The PUESA imposes a number of important obligations upon applicants in Siting Council proceedings designed to protect the vital interests of those municipalities in which any portion of the proposed facility is to be located. The clear intent of these provisions in the PUESA is to ensure that those municipalities that are most directly

affected by the proposed facility receive full notice of the proposal and have a meaningful opportunity to both provide input into the proposal and participate fully in the Council's proceedings.

The electric transmission line that is proposed in the present case is a facility that requires the approval of the Council to be sited in the State of Connecticut. Conn. Gen. Stat. § 16-50i(a)(1). As such, in order to receive the Council's approval, the Applicants must comply with the various requirements of the PUESA.

1. Application

To receive siting approval, the Applicants must initiate a certification proceeding by filing an application with the Council. Conn. Gen. Stat. § 16-50l(a). The application must contain certain specific information, much of which is of direct and immediate concern to the municipalities in which the facility is proposed to be located. For example, an application must contain, among other things:

(C) a map of suitable scale of the proposed routing or site, showing details of the rights-of-way or site in the vicinity of settled areas, parks, recreational areas and scenic areas, and showing the existing transmission lines within one mile of the proposed route or site; (D) justification for adoption of the route or site selected, including comparison with alternative routes or sites which are environmentally, technically and economically practical; (E) a description of the effect of the proposed electric transmission line . . . on the environment, ecology, and scenic, historic and recreational values.

Conn. Gen. Stat. § 16-50l(a).

2. Service and Notice

Each application shall be served upon "[e]ach municipality in which any portion of such facility is to be located," as well as upon each member of the legislature in whose assembly or senate district the facility or any alternative location listed in the application is to be located. Conn. Gen. Stat. § 15-50l(b). Moreover, notice of the application must

be given to the public, in municipalities entitled to be served with copies of the application. Id. These provisions ensure that the municipalities in which the facility is proposed to be located, their elected representatives and the public in those towns are made aware of the application and the impact that the proposed facility will have upon their town.

3. Municipal Consult

The PUESA also requires a municipal consultation process that is intended to allow the municipalities in which the facility is proposed to be located a meaningful opportunity to learn about the proposal, provide their input before the application is filed and hopefully to help shape the proposal that is ultimately filed. Specifically, at least 60 days prior to the filing of any application with the Council, “the applicant shall consult with the municipality in which the facility may be located and with any other municipality required to be served with a copy of the application” Conn. Gen. Stat. § 16-50l(e). Such consultation shall include, but not be limited to, good faith efforts to meet with the chief elected official of each such municipality. Id. Moreover, the municipality may conduct public hearings and meetings as it deems necessary to advise the applicant or its recommendations concerning the proposed transmission line and, within sixty days after the initial consultation the municipality shall issue its recommendations to the applicant. Conn. Gen. Stat. § 16-50l(e).

4. Public Hearing and Notice

The PUESA also requires that the Council hold public hearings regarding the proposed facility after providing adequate notice. Upon the receipt of an application, the Council shall fix a commencement date and location for a public hearing thereon not less

than 30 days or more than 150 days after its receipt. Conn. Gen. Stat. § 16-50m.

Moreover, at least one session of such hearing shall be held at a location selected by the Council in the county in which the facility or any part thereof is located after 6:30 p.m. for the convenience of the public. Id.

5. Parties and Rights of Parties

Pursuant to the PUESA, parties to the certification proceeding shall include each person entitled to receive a copy of the application, which includes each municipality in which any portion of such facility is to be located as well as each member of the legislature in whose assembly or senate district the facility or any alternative location listed in the application is to be located. Conn. Gen. Stat. § 15-50n(a). Moreover, each party “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.” Conn. Gen. Stat. § 16-50o(a).

B. Analysis

In the present case, the eighteen municipalities along the Applicants’ proposed route have received the benefit of the protections offered by the PUESA. They were served with the application and participated in the municipal consultation process. Those municipalities have participated in a meaningful way in these contested proceedings. Their participation throughout this case has been and will continue to be vital to the Council’s consideration of the very difficult issues presented in this proceeding.

Municipalities that are not among those eighteen towns, however, have not received the benefit of the PUESA’s various protections. As a result, when the Council considers routes that may go through such “other” towns (such as the East Shore route),

these municipalities are at a distinct disadvantage. They have not had the benefit of an application that describes how the route will affect their town, they have not been afforded the opportunity to provide feedback to the Applicants in a municipal consultation process and they have not had a full and fair opportunity to participate in these proceedings.

In light of the foregoing, the Attorney General respectfully submits that the Council may in this case take evidence pertaining to routes that may go through municipalities that were not required to be served with the application (because the proposed route did not traverse their towns), such as the East Shore route, and evaluate their merits relative to the Applicants' proposed route, but only for the purpose of considering and ruling upon the merits of the routes proposed by the Applicants. The Council cannot in this proceeding, consistent with the PUESA, approve a route that goes through municipalities that were not required to be served with the application. The consideration and approval of the siting of the proposed transmission line in such municipalities would require the filing of a new application that proposes such a route and that was served upon the towns in which that facility would be located.

By analogy, if an application proposes the siting of a facility exclusively in Town A, the Council may consider the placement of that facility in Town B, but only for the purpose of evaluating the relative merits of the site proposed in the application. The Council may not, however, approve the placement of that facility in Town B in that same proceeding. The siting of that facility in Town B would require the proper filing of a new application that proposes the placement of that facility in Town B.

WHEREFORE, for the foregoing reasons, the Attorney General respectfully submits that the Council cannot in this proceeding approve the siting of the proposed transmission lines in municipalities that were not served with an application under the PUESA.

Respectfully submitted,

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Service is hereby
Certified to all parties and
Intervenors on this agency's
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