

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

APPLICATION TO THE CONNECTICUT SITING
COUNCIL FOR A CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED FOR A 345 kV
ELECTRIC TRANSMISSION LINE FACILITY AND
ASSOCIATED FACILITIES BETWEEN SCOVILL ROCK
SWITCHING STATION IN MIDDLETOWN AND NORWALK
SUBSTATION IN NORWALK.

DOCKET NO. 272

JOINT FILING BY THE CONNECTICUT LIGHT AND
POWER COMPANY AND THE UNITED ILLUMINATING
COMPANY

JANUARY 19, 2005

**RESPONSE TO APPLICANTS' OBJECTION TO CUMULATIVE TESTIMONY
OF WOODBRIDGE INSTITUTIONS**

Ezra Academy, Congregation B'nai Jacob, The Jewish Community Center of Greater New Haven and The Jewish Federation of Greater New Haven (hereinafter the "Woodbridge Organizations") filed this response to a pleading filed by the Applicants dated January 13, 2005 entitled "Objection to Cumulative Testimony of Woodbridge Institutions" (the "Applicants' Objection"). The Applicants' Objection seeks to bar the pre-filed testimony by Dr. Leonard Bell, Dr. Peter Rabinowitz and Dr. Alan Gerber dated January 12, 2005 on behalf of the Woodbridge Organizations entitled "Testimony Addressing Recent Questions Raised by the Connecticut Siting Council and Witnesses Re: EMF" on two purported grounds: first, that the testimony is cumulative and duplicative of prior testimony and, second, that the testimony is not within the scope of the Council's invitation for "clean-up" testimony.

Both stated grounds for the Applicants' Objection are patently and demonstrably false. Applicants' Objection is another attempt by the Applicants to apply a different set of rules to the Applicants and to all other parties that participate in the above-referenced

Siting Council proceeding. The Applicants repeated attempts to silence their opponents should be vigorously repudiated by the Siting Council.

First, the pre-filed testimony by Drs. Bell, Rabinowitz, and Gerber is not cumulative of prior testimony. In fact, it is in part in response to “Supplemental Testimony III of Dr. William H. Bailey Concerning Magnetic Field Exposure Policy” dated October 12, 2004. Presumably, Dr. Bailey was making “new” points that he had not made previously rather than just restating the prior testimony by Drs. Bailey, Cole and Aaronson. In such Supplemental Testimony by Dr. Bailey, he purported to bring to the Siting Council’s attention a newly discovered article by Dr. Linet, an article that had been published a year and a half earlier. The testimony dated January 12, 2005 by Drs. Bell, Rabinowitz and Gerber is in part a response to Dr. Bailey’s October 12, 2004 testimony. The testimony by Drs. Bell, Rabinowitz and Gerber is also a response to questions raised by the Siting Council and other witnesses concerning whether the available scientific evidence and analysis supports an increased risk of childhood leukemia at exposure levels between 2 and 5 milliGaus. Of course, if this testimony is simply cumulative, which the Woodbridge Organizations do not believe it is, then, of course, there would be no need for Applicants to request that their witnesses appear again to have the “last word” on this subject.

Second, the testimony of Drs. Bell, Rabinowitz and Gerber is clearly within the scope of the Siting Council’s invitation for “clean-up” testimony. In fact, when the Applicants submitted Dr. Bailey’s Supplemental Testimony No. III dated October 12, 2004 to the Siting Council, there was a colloquy between Chairman Katz and Attorney Frank on the record of the proceedings of October 14, 2004. To show how clearly the

Applicants distort the proceedings before this Council in their submissions to the Council, the relevant portion of the October 14, 2004 transcript is set forth below.

CHAIRMAN KATZ: Okay. So if there's no objection, we'll take administrative notice of that. And we will strike 169 as an exhibit. And that takes us to the new 169, which is the supplemental testimony of Dr. Bailey?

MR. FITZGERALD: Yes. Dr. Bailey, is your Supplemental Testimony III, dated October 12, 2004, true and correct to the best of your knowledge and belief?

DR. WILLIAM BAILEY: Yes.

MR. FITZGERALD: I offer it as a full exhibit.

CHAIRMAN KATZ: Any objection to making it a full exhibit?
Mr. Frank.

MR. MONTE P. FRANK: I don't have an objection. I have a comment that –

AUDIO TECHNICIAN: Hang on –

COURT REPORTER: Okay, go ahead.

MR. FRANK: This is a subject matter that I did not understand to be on the agenda for today because the testimony deals primarily with policy issues on EMF, which is the subject that we've had and we dealt with back in May. I don't have an objection to the exhibit coming into evidence or coming into the record. I know that Dr. Bell and his group would like to file a response to it. And so I would just ask that they be permitted to do that so that we can address those issues.

CHAIRMAN KATZ: Okay. And – but I had anticipated Dr. Bailey would be back at cleanup day at the end anyway, so –

MR. FRANK: Or we could – we could do it in December if – we don't have an objection –

CHAIRMAN KATZ: No, no –

MR. FRANK: -- to two days of hearings –

CERTIFICATE OF SERVICE

This is to certify that on this 19th day of January, 2005 an original and 20 copies of the foregoing were Federal Expressed to the Connecticut Siting Council, 10 Franklin Square, New Britain, Connecticut 06051 and a copy of the foregoing was mailed, postage prepaid, to the parties and Intervenor set forth below. Electronic copies of the foregoing were also sent to the Connecticut Siting Council and all parties and Intervenor.

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s/David R. Schaefer
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