

# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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February 17, 2005

TO: Parties and Intervenors

FROM: S. Derek Phelps, Executive Director

RE: **DOCKET NO. 272** - The Connecticut Light and Power 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 facilities between the Scovill Rock Switching Station in Middletown and the Norwalk Substation in Norwalk, Connecticut. This includes construction of the Beseck Switching Station in Wallingford, East Devon Substation in Milford, and Singer Substation in Bridgeport and modifications to the Scovill Rock Switching Station and the Norwalk Substation and certain interconnections.

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The Council invites parties and intervenors to submit briefs, by or before March 16, 2005 as follows:

1. Participants in this proceeding are asked to make note of the following statutory citation:

Conn. Gen. Stat. § 16-50p (h) (added by Public Act 04-246, § 7)

“For a facility described in subdivision (1) of subsection (a) of section 16-50i with a capacity of three hundred forty-five kilovolts or greater, there shall be a presumption that a proposal to place the overhead portions, if any, of such facility adjacent to residential areas, public or private schools, licensed child care facilities, licensed youth camps or public playgrounds is inconsistent with the purposes of this chapter. An applicant may rebut this presumption by demonstrating to the council that it will be technologically infeasible to bury the facility. In determining such infeasibility, the council shall consider the effect of burying the facility on the reliability of the electric transmission of the state.”

(a) Given that the above provision is in a separate subsection from Conn. Gen. Stat. § 16-50p (a)(3)(D), which considers costs, does subsection (h) *prohibit* the Council from considering costs in determining whether to order portions of the proposed line adjacent to the listed facilities to be underground? If the answer is “no”, does the overall statute (Conn. Gen.



Stat. § 16-50p) *require* the Council to consider costs in determining whether to order portions of the proposed line adjacent to the listed facilities to be underground? If the answer as to whether the Council is prohibited from considering costs in determining whether to order portions of the proposed line adjacent to the listed facilities to be underground is “yes”, then is there *some* point where the potential costs to Connecticut consumers become so great as to permit the Council to consider costs?

(b) In interpreting Conn. Gen. Stat. § 16-50p (h), does the term “adjacent” mean that the proposed line goes through or borders the property (parcel) of the listed facility? Or does it mean that the proposed line has to be within a certain distance from a listed facility? If the protected facility is on a large parcel of land, does the underground requirement still pertain if the proposed line is adjacent to the property, but a substantial distance (such as 300 feet) from the actual facility? Conversely, does the underground requirement still pertain if the proposed line (or its right of way) does not actually border or go through the property of a protected facility, but the protected facility is relatively close (such as less than 100 feet) from the proposed line (or right of way)?

(c) In defining “technologically infeasible”, is the Council free to consider theoretically possible, but unproven, technology to not be reliable and therefore infeasible? Or must the Council approve theoretically possible systems or approaches unless proven unworkable or unreliable? Does the Council have the discretion to approve technology not proven reliable, but not proven unreliable? Also, if placing a segment underground *increases* exposure to EMF, may the Council deem it technologically infeasible to bury that segment?

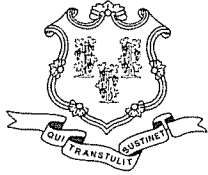
2. A crucial factual issue that has arisen in these hearings is whether there is a limitation to the amount of the proposed line that can be technologically and reliably buried, and, if there is a limit, just what is that limit (in terms of the number of miles). The Council is asking parties and intervenors to present their positions on this issue, whether in proposed findings of fact or in the briefs themselves, and to point to the evidence supporting their positions. For those parties and intervenors taking the position that there is a limit to the portion of the line that can be buried, the Council further requests that parties and intervenors state whether they believe that the underground portion must be one continuous portion, OR does the evidence demonstrate that the Council can allocate underground miles along different portions of the route (such as dividing the underground portions between Fairfield, New Haven and Middlesex counties, as opposed to a continuous underground strip)? For those parties and intervenors who believe that the Council can divide the allocation of underground portions, the Council further requests that those parties and intervenors be explicit in describing how the porpoising of the line (the line going from underground to above

ground and back again) can be accomplished. For those who advocate burying portions of the line that were not proposed to be buried by the applicants, the Council would like to know what portions of the line are being proposed for burial. The Council would also like to know whether the proposed buried portions are in addition to the burial proposed by the applicant, or in lieu of burying portions of the line proposed by the applicant. A related legal issue is whether the Council must take underground portions from segments of the line not passing adjacent to facilities protected by Conn. Gen. Stat. § 16-50p (h) and reallocate them to cover segments adjacent to protected facilities. Can this be technologically and reliably accomplished?

3. May the Council consider whether the configuration approved by it will likely be approved by the Independent System Operator (ISO) – New England? Must the Council consider likely ISO – New England approval or disapproval?

4. In interpreting Conn. Gen. Stat. § 16-50p (a)(3)(D), what is the effect of the establishment of a “buffer zone” by the Council? Does the establishment require the taking of homes and other facilities within the zone? Or does it affect only future building? Or does it require only warnings to be posted? Or does the Council have the discretion to determine the consequences? If the proposed lines cross a road (so that an individual person should have only fleeting contact with the zone), can the Council determine that there should be no buffer zone, or that the buffer zone should have no consequences? Can the Council alter the size of the buffer zone, depending upon whether the proposed line is passing by a facility frequented by children (such as a school), or a facility frequented almost exclusively by adults (such as a golf course)?

5. What is the definition of “residential area”? Is it where people actually live, regardless of zoning? Is it the areas zoned residential by municipalities? Does the Council have discretion to choose its own definition within reason?



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### NOTICE OF SERVICE

I hereby affirm that a photocopy of this document was sent to each Party and Intervenor on the service list dated January 26, 2005.

Dated: February 18, 2005

A handwritten signature in cursive script, appearing to read "L. Fontaine", written over a horizontal line.

Lisa Fontaine  
Custodian of Docket No. 272