

**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 FACILITIES BETWEEN THE	:	
SCOVILL ROCK SWITCHING STATION IN	:	
MIDDLETOWN AND THE NORWALK	:	
SUBSTATION IN NORWALK INCLUDING	:	
THE RECONSTRUCTION OF PORTIONS	:	
OF EXISTING 115-KV AND 345-KV ELECTRIC	:	
TRANSMISSION LINES, THE CONSTRUCTION	:	
OF THE 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.	:	JUNE 2, 2006

**OBJECTION OF THE WILSONS TO APPLICATION TO INTERVENE AND
BE DESIGNATED AS PARTIES AND PETITION FOR DECLARATORY
RULINGS OF ALLAN J. JOHANSON ET AL.**

The Wilsons¹ object to the Application of Attorney Barry Zitser on behalf of Allan Johanson and other named Middletown Royal Oak Residents (the "Middletown Royal Oak Group"). For the reasons set forth below, the Wilsons urge the Siting Council to either reject the Application or require the Middletown Royal Oak Group to further substantiate their entitlement to the relief requested. Their Application does not adequately or clearly support the requested action.

The Application requests two actions from the Siting Council: (a) party status and (b) declaratory rulings pursuant to §4-176 of the Connecticut General Statutes. The Petitioners clearly seek to create a second appealable event out of the Development and Management phase

¹ Linda Wilson and the South Main Street Irrevocable Trust.

through the declaratory ruling process after failing to make a timely appeal to the Siting Council's decision of April 7, 2005. Section 4-176(h) provides, in part,

A declaratory ruling...shall have the same status and binding effect as an order issued in a contested case and shall be a final decision *for purposes of appeal* in accordance with the provisions of section 4-183...

Section 4-183 sets forth the procedure for appeals from final decisions of administrative agencies.

The composition of the Middletown Royal Oak Group and prayer for relief suggest that the Petitioners are seeking to reargue matters already considered by the Siting Council. First, by their admission, the Applicants live in the Royal Oak neighborhood. Trisha Bradley of Communities for Responsible Energy represented the Royal Oak neighborhood, including the residents living in both Durham and Middletown. This organization forcefully argued for placement of the utility lines on the Bypass.

Second, the Application, in part, seeks relief which was previously considered and ruled on in the April 7, 2005 decision. Paragraph 1 asserts that the CL&P D&M Plan would have "adverse impacts on the properties and quality of life of the Petitioners" and the location of the Bypass provides an insufficient "buffer/protective zone between the transmission line and Petitioners' properties" and "undue hardship." They further assert in Paragraph 4 that the CL&P "D&M Plan does not sufficiently meet the environmental, legal, safety, health, and other concerns, set forth in Section 16-50p." The Petitioners merely assert statutory issues considered on the earlier decision without offering any explanation of how the D&M Plan is specifically deficient. Since the Siting Council concluded that a 125' easement is appropriate for a 345kV conductor (Finding 530) and no portion of the easement lies on the Petitioners' properties, these issues are moot as to the Petitioners.

The Petitioners also fail to detail the basis for their claim that the D&M Plan is non-compliant, inconsistent or in violation of various statutes or the Siting Council's Findings of Fact and Decision and Order. For example, the relief requested in Paragraph 1, in part, alleges,

"The proposed Royal Oak Bypass, filed by CL&P in its D&M Plan should be denied, and found to be not in compliance with the Connecticut Siting Council's Findings of Fact and Decision and Order in this Docket."

The Petitioners do not offer a single piece of information to support this allegation. The same is equally applicable to relief requested in Paragraphs 2 and 3.

The remaining requests for relief generally address adequacy of notice, due process, fairness and creation of appeal rights, but these requests also lack the specificity for the Siting Council to weigh the merits of the Petitioners' Application for party status and declaratory ruling. In sum, their initial and supplemental Applications are not supported with sufficient factual information to allow the Siting Council to evaluate the legal sufficiency of the Application, and should be rejected by the Siting Council.

Arguendo, if the Siting Council does not reject the Application as deficient, it should require the Petitioners and their counsel to immediately (e.g., within seven days) provide the Siting Council with supplemental information to substantiate their standing to file this action. Each of the Petitioners should be required to file a sworn affidavit and their counsel should be required to respond to questions of the Siting Council to establish the basis of the request for party status and declaratory ruling. This requirement would narrow the issues and better allow the Siting Council to evaluate the merits of the Application.

Each of the Petitioners should be required to submit a sworn affidavit to substantiate aggrievement and party status. The Application does not meet the requirements of Section 16-50j-14(b) of the Regulations of Connecticut State Agencies ("RCSA" or "Regulations") which, in part, provides,

The petition shall state the name and address of the Petitioner. It shall describe the manner in which the Petitioner claims to be substantially and specifically affected by the proceedings. It shall state the contention of the Petitioner concerning the issue of the proceeding, the relief sought by the Petitioner, and the statutory and other authority therefore, and the nature of the evidence, if any, that the Petitioner intends to present in the event that the petition is granted.

The Application merely infers that *some* of the Petitioners abut the property containing the Bypass utility easement...a pure *NIMBY* argument. The Petitioners seek to, but are not entitled to, assert property rights on their neighbors' property, to regulate development on the adjoining property, or ensure that their neighbors' property remains in an undeveloped state. The law does not give the Petitioner these rights. Thus, the Petitioners affidavit must set forth with specificity the requirements for party status set forth in the Regulations of the Siting Council.

Each Petitioner must also be required to set forth on the affidavit information relating to their knowledge of and participation in Docket No. 272, specifically stating their involvement with Trisha Bradley, Edward Schwartz, The Communities for Responsible Energy, and the City of Middletown including, but not limited to, the following:

A. Attendance at and dates of attendance of any meeting of the foregoing where the subject of the Bypass or utility easement through Royal Oak was discussed and the nature of such discussion.

B. The receipt of and dates of receipt of any written or oral communications with any of the foregoing and the nature of such communications.

C. The period of ownership or occupancy of the Petitioner at the address given in the Application.

D. The Petitioners' knowledge of and date of such knowledge regarding the foregoing parties' position (and the position of the Town's of Middletown and Durham) recommending that the utility easement be moved to the Bypass.

In sum, the Petitioners should present to the Siting Council evidence that demonstrates they seek party status with clean hands...not simply due to an untimely change of mind over the initial decision to support such Bypass.

The Petitioner's counsel should be required to submit additional evidence to substantiate his request for party status and declaratory ruling. Assuming that the Petitioners can meet the burden to establish party status, the Application does not meet the requirements for declaratory ruling. Section 16- 50j-39 of the Regulations provides, in part:

The request (for declaratory ruling) shall state clearly and concisely the substance and nature of the request; it shall identify the statute, regulation, final decision, or order concerning which the inquiry is made and shall identify the particular aspect of which the inquiry is directed. The request for declaratory ruling shall be accompanied by a statement of any supporting data, facts, and arguments that support the position of the person making the inquiry.

As stated above, the claims for relief are mere assertions of non-compliance, inconsistency or violations of statutes and/or the Findings of Fact and Decision and Order. The Application does not set forth with any specificity the nature of the Petitioners claims. For example, the Petitioners assert at Paragraph 2:

Petitioners seek a declaratory ruling, pursuant to Section 4-176, C.G.S. that the Royal Oak Bypass Plan filed by CL&P in its D&M Plan is not in accordance with the Royal Oak Bypass Plan ordered by the Siting Council in its Decision and Order in Docket 272,

but do not cite one passage in the D&M Plan that claims to show it is not in compliance with the Decision and Order. The Application is deficient on its face and does not meet the requirements of the Regulation and should be denied.

If the Siting Council is amenable to further delays by considering the Petitioner's Application, it should require the Petitioners' counsel to specifically set forth its request for relief and claims in accordance with the regulations. Furthermore, counsel should be required to state:

- A. Why each (or any) of the Petitioners were unable to make such facts known to the Siting Council during the public record, and
- B. How the facts asserted are different than the information contained in the public record.

The undersigned believes that counsel's response to the foregoing will substantially narrow the issues presented by the Petitioners and demonstrate that a substantial portion, if not all, of the claims for declaratory ruling were considered in the April 7, 2005 decision and not timely appealed to the Superior Court.

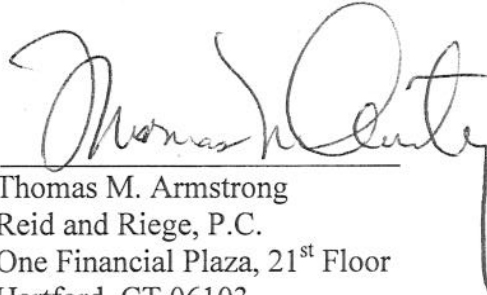
Conclusion

This Application should be reviewed by the Siting Council with healthy skepticism. After counsel and the Petitioners supply the additional information set forth above, it is probable that the request for party status will show that some or all of the Petitioners were familiar with Docket 272 and specifically supported or acquiesced in the position of Tricia Bradley, Edward Schwartz, Communities for Responsible Energy, and the three municipalities to move the utility easement to the Bypass. The Petitioners are now having second thoughts about this decision. Neither they nor the Communities for Responsible Energy nor the three municipalities chose to appeal the April 7, 2005 decision and merely seek to back-door this failure by use of the declaratory ruling process. The Application is deficient on its face as to the request of the Petitioners for party status and the basis for declaratory ruling.

The Siting Council should so rule, but if it does not reject the Application, it should require the Petitioners and the Petitioners' counsel to substantiate their request.

Respectfully submitted,

By:

A handwritten signature in cursive script, appearing to read "Thomas M. Armstrong", written over a horizontal line. A vertical line extends downwards from the right side of the signature.

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Certification of Service

On June 2, 2006, service is hereby certified to all parties and intervenors designated on the service list attached hereto.



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