

**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

**REPLY TO COMMENTS OF ATTORNEY GENERAL FOR THE STATE OF  
CONNECTICUT CONCERNING THE DEVELOPMENT AND  
MANAGEMENT PLAN FOR SEGMENT 1b – ROYAL OAK BYPASS**

The Wilson's<sup>1</sup>, file the following Reply to the Attorney General's comments dated June 1, 2006 in connection with the Development and Management Plan for Segment 1b – Royal Oak Bypass. The Wilsons vehemently disagree with the conclusions reached by the State of Connecticut recommending rejection of the Development and Management Plan for Segment 1b. As set forth below, the State's interpretation of the public record is clearly wrong and its position attempts to re-argue the 300-foot EMF buffer zone made on behalf of its client, the Department of Health and Human Services, but rejected by the Siting Council. Furthermore, its position jeopardizes arduous settlement negotiations between CL&P and the Wilsons (which were participated in by a

---

<sup>1</sup> Linda Wilson and The South Main Street Irrevocable Trust

member of his staff, albeit staff counsel for the Siting Council) and potentially other settlements reached in appeals of the April 7, 2005 Siting Council decision. Finally, the State's position jeopardizes a related settlement negotiated between the Wilsons and the City of Middletown, and upon information and belief, settlement negotiations with a water company that is owned by the City of Middletown and CL&P.

The State's comments focus on two pieces of evidence in support of its position that the Siting Council should reject the Development and Management Plan for Segment 1b. First, it claims that the Royal Oak neighborhood was entitled to rely upon a buffer of land between the residents on Acorn Drive and the Bypass by reason of certain drawings that were presented to the Siting Council. Second, it claims that a Finding of Fact #527 delineated the location of the Bypass. Neither of the State's positions are supported by the record.

The Siting Council's Decision and Order did not specify the precise location of the Bypass on the Wilson's property. This is affirmed in a letter to certain Acorn Drive residents dated May 17, 2006, which states, in part, "It should be noted that the Council decision does not specify exactly where the utility poles would be placed on the Wilson's property." The State has sought to construe this sentence as relating solely to the placement of poles and not the Bypass easement. The location of the poles and the easement are interrelated. The State's interpretation is inconsistent with the Decision and Order. Paragraph 6 of the Decision and Order states,

The Certificate Holder shall utilize the Royal Oak Bypass which shall include a right-of-way not to exceed 165 feet in width, and cleared right-of-way of 125 feet, for the proposed 345-kV transmission line and leave the existing 115-kV ROW in place.

This decision does not specify the location of the right-of-way. In contrast, the Decision and Order as it relates to the Town of Woodbridge in paragraph 6 provides, "In the vicinity of the Jewish Community Center, the Certificate Holder shall use the center of the ROW." Furthermore, a second change to the existing right-of-way in Woodbridge provided, "In the vicinity of Congregation B'Nai Jacobs – Ezra Academy, the right-of-way shall be shifted further away from the buildings on property owned by Congregation B'Nai Jacobs – Ezra Academy." (emphasis applied)

The intention of the Siting Council was clear in not prescribing a location for the Middletown Bypass; but chose to provide some direction in the other two instances where a change was made to the existing right-of-way. This position is supported by sworn testimony of Ms. Ann Bartosewicz on January 19, 2005 before the Siting Council. During this testimony, Chairman Katz and Council Member Tait questioned Ms. Bartosewicz regarding the location of the Bypass.

MR. TAIT: It seems to be the fewer lots that you impact would be – but I don't know – all I'm saying is had you known there was a subdivision there, is this the same route that you would have taken --

CHAIRMAN KATZ: Yes --

MR. TAIT: If not, what route would you have suggested?

CHAIRMAN KATZ: Right. Looking at this now with the subdivision superimposed, would you – would you want to change it?

MS. BARTOSEWICZ: Yeah. You – I mean you could have gone a little further south and you could have at the very – at the very top you could have made that angle a little tighter so you would have come off the existing right-of-way further west.

Later the Council asks

CHAIRMAN KATZ: Okay. If the Council approves the Royal Oak Bypass, is this something that you would want to play with in the D&M phase or --

MS. BARTOSEWICZ: Yeah.

CHAIRMAN KATZ: Okay. We – we will take that. Okay, any other Council questions on this map?... (see pages 115 through 117 of the transcript)

The foregoing colloquy between the Council and the Utility clearly points to the intention of the Utility and the understanding of the Siting Council to allow the specific location of the Bypass to be left to the Development and Management phase. It also underscores the intention of the Utility (and the understanding of the Siting Council) to minimize the impact of the easement on the Wilson subdivision.

The State's reference to Finding of Fact #527 stating that "There are three structures within 300 feet of the Royal Oak bypass" is misplaced. This is merely a statement in time. The previous Finding provides, in part, that, "The Applicants investigated a route that would bypass

the Royal Oak neighborhood beginning on June 2, 2004." Clearly the reference to a 300 foot distance from structures related to early discussions on the Bypass and predates by more than 6 months the discussion of Ms. Bartosewicz before the Siting Council on January 19, 2005 at which time the Utility and Siting Council were aware of the existence of subdivision plans.

Furthermore, the State's referral to a 300-foot buffer in its comments to the Siting Council is, in part, reference to its position as representing the Department of Health Services. During the proceedings on Docket 272, the Attorney General took the position that a 300-foot buffer would be required to reduce EMF levels to acceptable health levels. This position was rejected by the Siting Council in favor of the concept of "Prudent Avoidance." The Siting Council has determined that a 125-foot easement is appropriate to carry a 345-kV conductor at safe EMF levels. Thus, the State's reliance on the cited Finding of Fact and its interpretation of the Siting Council's letter of May 17, 2006 is misplaced.

Acceptance of the State's comments would jeopardize settlements which have been negotiated by the Wilsons and others with the Utilities. As stated above, the CL&P D&M Plan does not deviate from the Findings of Fact or Decision and Order. The Siting Council is not required to reopen its decision to adopt the D&M Plan. The Royal Oak Bypass remains on the Wilsons' property and comports with the decision of the Siting Council. To adopt the State's comments would mean that any variance would require the Siting Council to reopen its record. Clearly this is not a desired outcome.

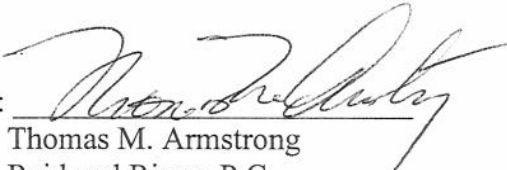
Finally, acceptance of State's comments places in jeopardy a related conditional settlement between the Wilsons and the City of Middletown. Further, the Wilsons understand that other related settlements are pending between the City of Middletown and CL&P regarding the transmission of the Bypass across the City-owned water reservoir.

In sum, the Royal Oak neighborhood had no reasonable expectation on the location of the Bypass on the Wilsons' property. The record demonstrates that the Siting Council did not intend to specify with precision the location of the Bypass and allowed the location to be developed during the D&M Plan. The D&M Plan clearly demonstrates that the CL&P Bypass does not encroach upon the property owners on Acorn Drive and is more than a prudently safe distance from the Acorn residents. The Siting Council did not intend that the Wilsons bear the entire brunt of relocation of the easement onto their property. It contemplated that the D&M Plan would make reasonable adjustments to allow development to occur on the Wilsons' property.

Similarly, the residents of Acorn Drive are not entitled to have the Wilsons' property remain undeveloped. And, the City of Middletown should not be required to lose the tax revenues which would be associated with unusable property if the D&M Plan is rejected.

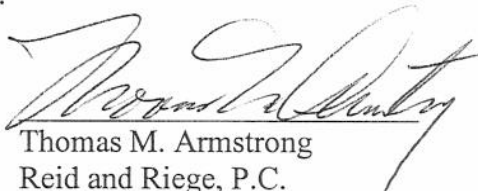
For the foregoing reasons, the Wilsons request that the Siting Council approve the D&M Plan.

Respectfully submitted,

By:   
Thomas M. Armstrong  
Reid and Riege, P.C.  
One Financial Plaza, 21<sup>st</sup> Floor  
Hartford, CT 06103  
Tel: 860-278-1150  
Fax: 860-240-1002

**Certification of Service**

On June 2, 2006, service is hereby certified to all parties and intervenors designated on Reid and Riege's service list in this proceeding.

  
Thomas M. Armstrong  
Reid and Riege, P.C.  
One Financial Plaza, 21<sup>st</sup> Floor  
Hartford, CT 06103  
Tel: 860-278-1150  
Fax: 860-240-1002