

STATE OF CONNECTICUT
SITING COUNCIL

Re: The Connecticut Light and Power Company and) Docket 272
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 Scovill Rock Switching Station)
in Middletown and Norwalk Substation in Norwalk,)
Connecticut 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) August 16, 2006
Bridgeport, Modifications at Scovill Rock)
Switching Station and Norwalk Substation and the)
Reconfiguration of Certain Interconnections)
)
**Supplemental Hearing Pursuant to Conn. Gen.)
Stats. § 4-181a(b))**

PROPOSED FINDINGS OF FACT

OF

**THE CONNECTICUT LIGHT AND POWER COMPANY
AND**

THE UNITED ILLUMINATING COMPANY

**CONCERNING THE MODIFICATION,
PURSUANT TO CONN. GEN. STATS. § 4-181a(b),
OF THE COUNCIL'S DECISION AND ORDER AND CERTIFICATE TO
APPROVE CERTAIN VARIATIONS OF THE OVERHEAD ROUTE
THROUGH WOODBRIDGE, CONNECTICUT**

Procedural Matters

1. On June 15, 2006, The Connecticut Light and Power Company (“CL&P”) submitted a draft Development and Management (“D&M”) Plan for Segment 2b of the Middletown-Norwalk Project (the “Project”). (App. Ex. 1, D&M Plan)
2. Segment 2b includes all transmission line construction from the Cheshire / Hamden town line to East Devon Substation in Milford, thus involving construction and reconstruction of overhead lines in Hamden, Bethany, Woodbridge, Orange, West Haven, and Milford. (App. Ex. 1, D&M Plan)
3. Pursuant to Condition 11 of the Council’s Decision and Order, CL&P consulted with the six municipalities affected by this D&M Plan, and provided the appropriate municipal officials with multiple copies of this D&M Plan to allow them an opportunity to review the Plan and file comments with the Council. (App. Ex. 1, D&M Plan, Transmittal Letter)
4. Upon review of the proposed Segment 2b D&M Plan, the Council determined it incorporated certain variations from the route previously certified by the Council’s Decision and Order (“D&O”) and Certificate of Environmental Compatibility and Public Need (“Certificate”) issued on April 7, 2005 (the “Certified Route”). These route variations, which are described hereafter, are collectively referred to as the “Modifications.”
5. Accordingly, on its own motion, the Council noticed a hearing pursuant to section 4-181a(b) of the General Statutes in order to determine whether conditions that have changed since the D&O was issued support the adoption of the Modifications. (Council Minutes, June 19, 2006; Notice of Hearing, June 29, 2006)
6. Notice of the hearing was provided to all parties and intervenors in Docket 272. (Record, Notice of Hearing)
7. The Council sought comment with respect to the subject matter of the public hearing from the Commissioner of the Department of Environmental Protection, the Commissioner of the Department of Public Health, the Council on Environmental Quality, the Department of Public Utility Control, the Office of Policy and Management, the Department of Economic and Community Development, and the Department of Transportation. (Record, Request for Comments)
8. The Council received one agency comment, from the Department of Health, which related to a portion of the Segment 2b D&M Plan that was not in Woodbridge, and not the subject of the noticed hearing. (DPH Comment, July 12, 2006)
9. The Council conducted a publicly noticed field review of the proposed route deviations on Thursday, July 20, 2006. (Record)

10. The Council held an evidentiary hearing on this matter at The Gymnasium at the Center, 4 Meetinghouse Lane, Woodbridge, CT, commencing at 3:15 p.m. on July 20, 2006, and continuing after the conclusion of a public comment session that commenced at 7:05 p.m. (Aft. Tr.¹ at 11; Eve. Tr. at 11, 24)
11. The Council considered comments from members of the public hearing at the evening session beginning at 7:05 p.m. on July 20, 2006. (Eve. Tr. at 11)
12. Prior to the commencement of the evidentiary hearing, the Council granted applications of the following individuals to be made parties: Peter Werth, 85 Rimmon Road, Woodbridge, CT and William A. Root, 18 Center Road, Woodbridge, CT. (Aft. Tr. at 16-18)

Description of the Proposed Modifications

13. The first route variation begins on property owned by the Jewish Federation of New Haven (“JFNH”), where the Jewish Community Center is located (the “JCC Property”) and continues on adjacent property to the south, which is now owned by CL&P. The second variation would be farther south along the right-of-way, mostly on property of Congregation B’nai Jacob, where the B’nai Jacob Synagogue, Ezra Academy, and other institutions are located (the “B’nai Jacob Property”); and in part on adjacent property now owned by Donna Reis (the “Reis Property”). (App. Ex. 2, Test. of Bartosewicz, et al., p. 2 and Ex. A, B, and C; App. Ex. 1, D&M Plan, Sheets 11 and 12)
14. The Certified Route across the JCC and CL&P properties is the existing right-of-way. (D&O, p. 2 ¶ 6) The variations on these properties involve small deviations from the existing right-of-way. The first variation would add two “jogs” in the right-of-way to move the right-of-way on the JCC property away from existing facilities. (App. Ex. 2, Test. of Bartosewicz, et al., pp. 2, 3 and Ex. A and B). The variation on the adjacent CL&P property would add a “jog” toward the eastern boundary of that property, so as to leave more continuous property suitable for potential future development to the west of the right-of-way. (*Id.*)
15. On the B’nai Jacob Property, the D&O requires the existing right-of-way to be shifted to the north away from the existing buildings, toward the boundary line of the Reis Property, but within the B’nai Jacob Property. (D&O, p. 2 ¶ 6; Opinion, p. 14 § XVI b) The proposed variation would relocate the right-of-way slightly farther to the north, about 40 feet, in part onto a small portion of the Reis Property that Congregation B’nai Jacob proposes to acquire. (App. Ex. 2, Test. of Bartosewicz, et al., pp. 3 and Ex. A and C; Woodbridge Org. Ex. 1, Test. of Oren, et al., p. 5)

¹ “Aft. Tr.” = Transcript of the 3:00 p.m. hearing session on July 20, 2006; “Eve. Tr.” = transcript of the 7:00 p.m. hearing session on July 20, 2006.

Changed Conditions Supporting the Woodbridge Variations

16. Among the many factors that the Council took into consideration in determining the Certified Route were reasonable preferences expressed by affected landowners and towns, provided that such preferences were generally consistent with the statutory criteria that govern route selection, including the requirement of P.A. 04-246 that the Council find that any portion of an overhead 345-kV line that is to be built adjacent to a school or licensed day care center be contained within a buffer zone that protects the public health and safety. (Opinion)

JCC / CL&P Properties

17. In the course of the hearings preceding its D&O, the Council considered ordering a route that would have been farther away from the JCC building than the existing right-of-way. However, the JCC was opposed to such a route because it would have traversed portions of the JCC property presently used as a ball field, play areas, picnic areas, and hiking trails, and it had no property to which these facilities could be relocated, nor means to effect the relocation. The JCC accordingly submitted to the Council that if the new 345-kV line could not be constructed underground in Woodbridge, it would prefer to have the line constructed in the middle of the existing overhead right-of-way, rather than moved farther from the buildings. (App. Ex. 2, Test. of Bartosewicz et al., at 4, 5; Woodbridge Org. Ex. 1, Test. of Oren et al., p. 5; Woodbridge Organizations' Ex. 142, Responses to Council Interrogatories dated February 10, 2005; 2/17/05 Tr. at 160-168 (Cohen)). Consistent with this expression of preference, the Council ordered that the reconstructed lines be located in the middle of the existing right-of-way. (D&O, p. 2 ¶ 6a)
18. After the Council issued its Decision & Order, the Jewish Federation of New Haven ("JFNH"), a parent organization of the JCC, agreed to buy, and CL&P agreed to sell, the CL&P Property. This agreement made it possible for the first time for the JCC to move to adjacent useable property the recreational facilities that would otherwise be crossed by the new 345-kV line, were it to be moved to a location farther from the existing JCC community building. In addition, the JFNH agreed to provide funding to move certain of the camp facilities. Thus, the JCC acquired both a new location for certain of its camp facilities and the means to move them there, and accordingly changed its preference with respect to the location of the right-of-way and the reconstructed lines within its property. (Woodbridge Org. Ex. 1, Test. of Oren, et al., p. 6; App. Ex. 2, Test. of Bartosewicz et al. pp. 3, 4)

B'nai Jacob Property

19. In the course of the hearings preceding the issuance of the D&O, Congregation B'nai Jacob and Ezra Academy requested the Council to order that, if the lines were to be constructed overhead, the right-of-way be moved away from the buildings on their

² References to exhibits in the main proceeding are referenced in *italic*; references to exhibits received at the July 20, 2006 hearing are in plain text.

campus onto the Reis Property to the north. (App. Ex. 2, Test. of Bartosewicz et al. pp. 6; Woodbridge Organizations' Ex. 14, Responses to Council Interrogatories dated February 10, 2005; 2/17/05 Tr. at 160-168 (Cohen)). At that time, the owner of the Reis property had no interest in hosting any portion of the right-of-way. (Findings of Fact. April 7, 2005, ¶ 612) The Council determined that the line should not be moved onto property where it was not already located, and accordingly ordered that the right-of-way be shifted within the B'nai Jacob Property, farther away from the buildings, but not as far as the Reis Property. (D&O, p.2, ¶ 6b; Opinion, p. 15, ¶ XVIb).

20. Since the issuance of the D&O, Donna Reis, the owner of the Reis Property, agreed to sell a small piece of her property (less than 11,000 sq. ft.) to Congregation B'nai Jacob. That property will be used for the relocation of the right-of-way, so that the right-of-way can be moved somewhat further away from the buildings on the B'nai Jacob property than it could have been under the D&O. (App. Ex. 2, Test. of Bartosewicz et al., p. 6 and Ex. C; Woodbridge Org. Ex. 1, Test. of Oren, et al., 1, 6; Eve. Tr. at 27 (Bartosewicz)). Accordingly, the conditions now exist to locate the right-of-way further from the B'nai Jacob buildings than was the case at the time of the Decision and Order, without any requirement of acquiring an easement from an unwilling landowner by eminent domain.

Development of the Changed Conditions

21. The changed conditions have developed as a result of court-annexed mediation by Hon. George Levine of appeals from the D&O taken by the owners of the JCC, B'nai Jacob, and Reis Properties, and by the Town of Woodbridge. (App. Ex. 2, Test of Bartosewicz, et al., pp. 4-6; Woodbridge Org. Ex. 1, Test. of Oren, et al., p. 6, 7; Woodbridge Ex. 1, Test. of Sheehy, p. 2; Aft. Tr. at 26, 29).
22. As part of the overall settlement supervised by Judge Levine, Donna Reis has agreed to sell the relevant portion of the Reis Property to Congregation B'nai Jacob; Congregation B'nai Jacob and CL&P have agreed to share the cost of acquiring that land; and CL&P has agreed to sell the CL&P Property to the JFNH. (Test of Bartosewicz, et al., pp. 4-6; Woodbridge Org. Ex. 1, Test. of Oren, et al., p. 6, 7). In addition, the Town of Woodbridge has agreed to waive its statutory right of first refusal with respect to the CL&P Land. (Woodbridge Ex. 1, Test. of Sheehy, p. 2, 3).
23. The performance of the settlement agreements, and therefore the existence of the conditions that will support the requested modification of the route in Woodbridge, is subject to approval of the sale of the CL&P Property by the Department of Public Utility Control. (App. Ex. 2, Test. of Bartosewicz, et al., p. 6).
24. There are three separate but interdependent settlement agreements: one between the Applicants, the JFNH, the JCC, Congregation B'nai Jacob and Ezra Academy; one between the Applicants and Donna Reis; and one between the Applicants and the Town of Woodbridge. (App. Ex. 2, Test. of Bartosewicz et al., pp. 6, 7). Copies of these agreements have been filed with the Council pursuant to the requirement of section 16-50o(c) of the General Statutes. (See, Letter of B.T. Henebry, d. 7/21/06)

Analysis of the Route Modifications

25. The type and size of the structures will not change from those contemplated by the D&O and requested by the property owners, although there will be more angle structures called for by the Modifications than would have been required for the Certified Route. (App. Ex. 2, Test. of Bartosewicz et al., p. 7; App. Ex. 1, D&M Plan, Vol. 1, Sheets 11 & 12). The relocated 115-kV lines will be supported on steel monopole structures with a typical height of 80'; and the 345-kV line will be in a "split phase" configuration, supported by a line of steel monopoles with a typical height of 85'. (App. Ex. 1, D&M Plan, Vol. 2, Fig. 2b) (Aft. Tr. at 34, 35 (Bartosewicz)). Angle structures will be taller. The modified right-of-way will be 165' wide on the JCC and CL&P Properties, and 185' wide on the B'nai Jacob Property. (App. Ex. 1, D&M Plan, vol. 2, fig. 2b)
26. The modification of the route will: provide more separation distance between the reconstructed lines and the principal buildings on each of the JCC and B'nai Ezra campuses; provide more separation distance between the new lines and certain JCC camp facilities; and provide more contiguous area for development on the CL&P property to be conveyed to the JFNH, which is planned to be used for a future continuing care retirement facility, as well as for the relocation of the ball field. App. Ex. 2, Test. of Bartosewicz, pp. 4-6; Woodbridge Org. Ex. 2, Test. of Oren, et al., p. 5)
27. The modification of the B'nai / Ezra / Reis portion of the route will move the right-of-way and related facilities approximately 40 feet to the north, in part on to a large, currently undeveloped parcel. There are no nearby residences affected by this modification. (Woodbridge Org. Ex. 1, Test. of Oren, et al., p. 5; App. Ex. 2, Test. of Bartosewicz, et al., Ex. A, C)
28. The modification of the route on the Congregation B'nai Jacob / Reis property would not bring any portion of the right-of-way or any related facility closer to the property of the intervenor Werth than would be the case were the Certified Route to be constructed. (App. Ex. 6; Aft. Tr. at 28 (Bartosewicz)). The Werth property is not affected differently by the proposed modified route than it would be by the Certified Route. (*Id.*, Aft. Tr. at 63 (Werth))
29. While the modification of the route across the JCC Property will result in the right-of-way and related transmission facilities being closer to a few neighboring residences than they would have been, were the Certified Route be built, the modification will not result in the right-of-way or the related transmission facilities being any closer to any nearby residence than they are to the JCC main building or the JCC camp's pool and building. Thus, the proposed modification would provide the same amount of distance to nearby residences as to the JCC facilities. (Woodbridge Org. Ex. 2, Test. of Oren, et al., p. 6; App. Ex. 2, Test. of Bartosewicz et al., Ex. A, B)
30. The relocation of the right-of-way across the JCC Property upon which the parties to the Woodbridge appeals initially agreed would have been approximately 75-80' closer to the

nearest corner of the Root Property than the relocation proposed as part of the Modifications. In response to concerns expressed by Mr. Root, [paragraph(s) to be adapted from transcript re: distances between row and Root], the proposed relocation was modified to a location closer to the JCC building. Accordingly, whereas the right-of-way is currently approximately 150' from the nearest corner of Root Property, the relocated right-of-way will be approximately 75' from that point. (Eve. Tr. at 44-46 (Sheehy), 70, 71(Root); App. Ex. 5.)

31. The proposed Modification will require the creation of a new right-of-way for approximately 3000 feet on the JCC and current CL&P Properties. This new right-of-way will require approximately 9.7 acres of upland forest clearing and 1.8 acres of forested wetland clearing. However, approximately 2.3 acres of shrub / scrub wetland along the portion of the right-of-way on the JCC Property that will be abandoned would no longer be maintained by CL&P, and therefore could revert to a forested wetland over time. (App. Ex. 2, Test. of Bartosewicz et al., p. 8; App. Ex. 1, D&M Plan, Sheet 11; Aft. Tr. at 84-86 (Mango))
32. The clearing associated with the modification of the right-of-way on the B'nai Jacob and Reis Properties will be essentially the same as that which would have been required on the B'nai Jacob Property for the Certified Route. The width and length of the right-of-way remain essentially the same, but a small portion of the clearing (approximately 0.2 acres) will now be on the Reis Property rather than the B'nai Jacob Property. (App. Ex. 2, Test. of Bartosewicz et al., p. 8, Ex. D; App. Ex. 1, D&M Plan, Sheet 11, 12)
33. The forested habitats along the modified portion of the right-of-way will be replaced by shrub / scrub vegetation, which will be maintained along the new right-of-way for the life of the Project. The effects of the Project on wetlands and forested wetland clearing (including the incremental impacts associated with the JCC variations) will be mitigated pursuant to a wetland compensation program that the Companies are presently discussing as part of permits pending before the U.S. Army Corps of Engineers and the Connecticut Department of Environmental Protection. (App. Ex. 2, Test. of Bartosewicz et al., p. 8)
34. The proposed variations are in close proximity to, and generally parallel to, the existing right-of-way and will not result in any adverse effects on threatened or endangered species. (App. Ex. 2, Test. of Bartosewicz et al., p. 8)
35. The visual impact of the proposed transmission structures will be similar to that of the structures that would be required by the D&O. (App. Ex. 2, Test. of Bartosewicz et al., p. 8)
36. The Modifications will not have adverse effects on cultural resources. As documented in the *2003 Cultural Resources Assessment* for the Project (Volume 3 of the Companies' Application to the Siting Council), the B'nai Jacob variation is within an area that was characterized as non-sensitive for cultural resources. The Modifications on the JCC Property are within an area that is potentially sensitive for cultural resources, within which the Applicants have commissioned cultural resources field investigations (which

are ongoing). To the extent that significant cultural resources are discovered as a result of such investigations, the Applicants will coordinate with the State Historic Preservation Office to assure that no significant adverse effects to cultural materials occur as a result of the Project. (App. Ex. 2, Test. of Bartosewicz et al., p. 8)

37. Projections derived from magnetic field modeling of the proposed line configurations operating under typical conditions (the "15GW Case") drop off to below 1 mG within 30' from the edge of the right-of-way, in the direction of the building on the JCC Property, and in the direction of the existing building on the B'nai Jacob Property. (App. Ex. 2, Test. of Bartosewicz et al., p. 7, 8 and Ex. D & E)
38. These projections also show that magnetic fields would drop off to at or below 1 mG at the Root property boundary. (App. Ex. 2, Test. of Bartosewicz et al., at 7, 8 and Ex. D thereto; App. Ex. 4; *see* FOF ¶ 30)

Incremental Cost

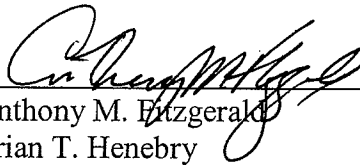
39. The total incremental costs of the route modification are estimated to be approximately \$1,702,000. The increase is accounted for by the requirement of additional transmission structures for a longer route, including more angle structures, additional clearing costs, and a payment by CL&P of \$200,000 of the purchase price for the Reis Property. (App. Ex. 7; Aft. Tr. at 66-69 (Bartosewicz))

Additional Benefits of the Settlement

40. Settlement of the pending appeals concerning the Woodbridge section of the Middletown-Norwalk Project above will ensure that the Project will go forward without delay, so as to bring critically needed electric reliability to Southwest Connecticut, thus avoiding both substantial risk and the potential for very substantial costs associated with delay. (Aft. Tr. at 58, 59 (Bartosewicz), 70-74 (Bartosewicz and Carberry))

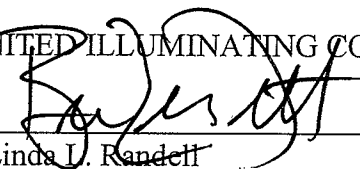
Respectfully submitted,

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