

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**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.**

DOCKET NO. 272

JULY 19, 2004

**THE BRIEF OF THE MUNICIPALITIES OF BETHANY, CHESHIRE,
DURHAM, HAMDEN, MIDDLEFIELD, MILFORD,
NORTH HAVEN, ORANGE, WALLINGFORD, AND WOODBRIDGE
REGARDING NOTICE REQUIRED BY THE “EAST SHORE ROUTE”**

In accordance with the request of the Connecticut Siting Council (“Council”) for comments regarding the notification requirements to municipalities impacted by the potential East Shore Route in the above-referenced docket, the City of Milford and Towns of Bethany, Cheshire, Durham, Hamden, Middlefield, North Haven, Orange, Wallingford, and Woodbridge (collectively, the “Towns”) hereby submit this brief to the Council.¹ As set forth more fully below, the municipalities and residents impacted by the East Shore Route must receive notice that satisfies the requirements set forth in Conn. Gen. Stat. § 16-50i in order for this route to be considered or approved by the Council.

I. BACKGROUND

On October 9, 2003, The Connecticut Light and Power Company and The United Illuminating Company (“Applicants”) filed an application for a Certificate of Environmental

¹ The undersigned represents only the City of Milford in this proceeding, but has been authorized by the named Towns to file this brief on their behalf.

Compatibility and Public Need for a 345-kV electric transmission line facility between Scovill Rock Switching Station in Middletown and Norwalk Substation in Norwalk (the “Application”). In accordance with Conn. Gen. Stat. § 16-50l(b), the Applicants served a copy of the Application on every municipality that would be impacted by this proposed facility, specifically: Middletown, Haddam, Durham, Middlefield, Meriden, Wallingford, Cheshire, Hamden, North Haven, Bethany, Woodbridge, New Haven, Orange, West Haven, Milford, Stratford, Bridgeport, Fairfield, Trumbull, Easton, Weston, Westport, Wilton, and Norwalk.² In addition, each member of the legislature in whose assembly or senate district the proposed facility was proposed was served with a copy of the Application. The Applicants also published legal notice of the filing of its Application in newspapers having general circulation in the municipalities listed above, and public notice was mailed to each of the Applicants’ customers in those municipalities with their monthly bill. Finally, the landowners abutting the properties on which the proposed substations will be located were sent notice of the Application via certified mail.

On December 16, 2003, the Applicants identified an alternate configuration for the transmission line, referred to herein as the “Applicants’ East Shore Route”, which would potentially traverse several municipalities that were not provided legal notice of the Application. The Applicants’ East Shore Route includes the construction of a second 345-kV transmission line along the existing right of way from Middletown to the East Shore Substation in New Haven, and a new 345 kV line from the East Shore Substation to the proposed East Devon Substation.

² Impacted municipalities include each municipality in which any portion of such facility is to be located, both as primarily proposed and in the route locations listed and any adjoining municipality having a boundary not more than two thousand five hundred feet from such facility.

The Towns reviewed this information and are studying a different configuration, referred to herein as the “Towns’ East Shore Route.” The Towns believe that this route is potentially feasible and a preferable alternative to any of the proposed routes. This configuration was referenced in the Prefiled Testimony of David Schlissel and Peter Lanzalotta dated May 25, 2004, and discussed during the cross examination of the Towns’ experts on June 3, 2004. The Towns’ East Shore Route does not include the construction of a second transmission line along the right of way, but is expected to require limited reconductoring of the existing transmission line that traverses municipalities that were not noticed and have not participated in this proceeding. Further, the Towns’ East Shore Route anticipates that any new sections of 345 kV transmission line would be constructed entirely within the limits of the municipalities that have already received notice of the Application.

The Council is presently considering the impact of the East Shore Route(s) on the procedural aspects of this proceeding. The Council requested, in correspondence dated June 10, 2004, that all participants provide comment on the issue of municipal notification of this prospective route.

II. STATUTORY ANALYSIS

This proceeding is governed by the provisions of the Public Utility Environmental Standards Act (“PUESA”), codified at Conn. Gen. Stat. § 16-50g, et seq. The Application seeks certification of a 345 kV transmission line and associated facilities. Section 16-50k(a) provides that “no person shall... commence the construction or supplying of a facility, or any modifications of a facility, that may, as determined by the council, have a substantial adverse

environmental effect...” without first obtaining a certificate of environmental compatibility and public need. Conn. Gen. Stat. § 16-50k(a).

The Certificate of Environmental Compatibility and Public Need (“Certificate”) process includes several types of notice compliance. These notice requirements can best be characterized as occurring in three stages: (1) pre-application notice, (2) application notice, and (3) hearing notice.

A. Pre-Application Notice

At least 60 days prior to the filing of an application with the Council, “the applicant shall consult with the municipality in which the facility may be located and with any other municipality required to be served with a copy of the application” Conn. Gen. Stat. § 16-50l(e). Such consultation shall include, but not be limited to, good faith efforts to meet with the chief elected official of each such municipality. Id. This notice is intended to inform the municipality and its residents and allow them the opportunity to participate in the process.

B. Application Notice

Upon filing an application for a Certificate, Conn. Gen. Stat. § 16-50l(b) provides that notice be provided in the following manner:

1. Copy of the Application

Section 16-50l(b) provides that a copy of the application must be served on each municipality in which any portion of such facility is to be located, both as primarily proposed and in the route locations listed, any adjoining municipality having a boundary not more than two thousand five hundred feet from such facility, the zoning commissions, planning commissions, planning and zoning commissions, conservation commissions and inland wetlands agencies of each such municipality, the

regional planning agencies which encompass each such municipality, the Attorney General, each member of the legislature in whose assembly or senate district the facility or any alternative listed in the application is to be located; and such state and federal agencies as may be required or appropriate. Conn. Gen. Stat. § 16-50l(b).

2. Notice of the Application

Conn. Gen. Stat. § 16-50l(b) further provides for the provision of notice by publication and mail.

a. Publication

An applicant is required to provide the general public with notice of the application via “the publication of a summary of such application and the date on or about which it will be filed... in such newspapers as will serve substantially to inform the public of such application and to afford interested persons sufficient time to prepare for and to be heard at the hearing prescribed in section 16-50m... .” Conn. Gen. Stat. § 16-50l(b)

b. Mail

Each electric company or electric distribution company customer in the municipality where the facility is proposed is entitled to receive notice of the application, as specifically set forth in Conn. Gen. Stat. § 16-50l(b), which notice shall be included in each customer’s monthly bill.

Finally, notice of the construction of any electric substation shall be sent “by certified or registered mail, to each person appearing of record as an owner of property which abuts the proposed primary or Route sites on which the facility would be located...” Conn. Gen. Stat. § 16-50l(b).

3. Hearing Notice

The last type of notice required is the public hearing notice. If the application has complied with the requirements of Conn. Gen. Stat. § 16-50*l*, as set forth (in part) above the Council must set a date and location for a public hearing thereon not less than thirty days nor more than one hundred fifty days from the receipt of the application. At least one session of such hearing shall be held at a location selected by the Council in the county in which the facility or any part thereof is to be located after six-thirty p.m. for the convenience of the general public. Conn. Gen. Stat. § 16-50*m*

III. DISCUSSION

The prospective East Shore Route may involve the location of a new transmission line or modification of existing equipment in several towns that have not received notice of this application. The Applicants' East Shore configuration would require a second 345 kV transmission line be located within the existing right of way. Although this new line would not require an expansion of the right of way, it is a facility that was not contemplated or noticed in the pre-application, application or public hearing phases of this project.

In contrast, however, the East Shore Route being studied by the Towns does not include a second 345 kV transmission line through the Towns and Cities of East Haven, North Haven, Branford, and North Branford. It does contemplate reconductoring the existing transmission lines that run through these communities, the implementation of new 345 kV transmission line segments between the East Shore and East Devon Substations, from Beseck to Black Pond and Oxbow Junction, and from Scovill Rock to Chestnut Junction (all of whose

host municipalities received notice of the Application), and finally the reconfiguration of the East Shore Substation.

It is the Towns' position that notice in accordance with the requirements of § 16-50l(b) should be provided to the newly implicated municipalities and residents. After the foregoing notice requirements have been fully complied with, the Towns suggest that the affected municipalities and residents should be afforded a reasonable amount of time to review the Application and potential East Shore Route configurations and also be provided an opportunity for public hearing on the matter

IV. CONCLUSION

The Council may only approve an alternative that has been properly noticed, and therefore could not certify an East Shore Route configuration until the notice requirements set forth in Conn. Gen. Stat. § 16-50l(b) have been met. As a result, notice must be provided to those municipalities and residents that would be impacted by this proposal in order for the Council to properly consider any prospective East Shore Route.

Respectfully submitted,

THE MUNICIPALITIES OF BETHANY,
CHESHIRE, DURHAM, HAMDEN,
MIDDLEFIELD, MILFORD, NORTH HAVEN,
ORANGE, WALLINGFORD, AND
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CERTIFICATION

I hereby certify that a copy of the foregoing has this date been served upon the following:

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<p>Party:</p> <p>Honorable Robert W. Megna State Representative – 97th District 40 Foxon Hill Road, #54 New Haven, CT 06513 (203) 240-8585 (800) 842-8267</p>	<p>Intervenor:</p> <p>Honorable Al Adinolfi State Representative 103rd District 235 Sorghum Mill Drive Cheshire, CT 06410 (203) 272-9701 (800) 842-1423 (860) 240-0207 - fax</p>	<p>Party: Town of Middlefield</p> <p>Eric Knapp, Esq. Branse & Willis, LLC 41-C New London Turnpike Glen Lochen East Glastonbury, CT 06033-2038 (860) 659-3735 (860) 659-9368 - fax</p>
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