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STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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Motion to Reopen
July 30, 1993

DECISION

RE: DOCKET NO. 141 - A joint Certificate of the Connecticut Light and Power Company and the United Illuminating Company for the construction of a 115kV electric transmission line and related telecommunications equipment between the United Illuminating Company's Pequonnock Substation in Bridgeport and the Connecticut Light and Power Company's Ely Avenue Junction in Norwalk, Connecticut.

Motions and Requests to Reopen Docket No. 141

On July 30, 1993, the Connecticut Siting Council ("Council") considered motions and requests to reopen, stop work, reconsider, revoke or amend the Certificate, and to modify the construction of this 115kV transmission line facility. These motions and requests were filed by Jacquelyn C. Durrell - Town of Fairfield First Selectman; Linda Chandler - Fairfield PTA Council; Frederick S. and Nancy E. Phillips; Margaret Mary Fitzgerald - Principal of Fairfield's Tomlinson Middle School; Steven Stout; Carol Harrington - Superintendent of Fairfield Schools; Karen Adams - Alliance to Limit Electromagnetic Radiation Today ("ALERT"); Coralee and David Reiss; State Representative Gene Gavin; Phillip Halligan and Ellen Moore - Fairfield's Tomlinson Middle School PTA. The persons filing these motions and requests contend that the proposed facility project would create potential health effects associated with electric and magnetic fields; would have negative effects on the Southport Historic District; and that certain project alternatives would reduce health effects, better preserve scenic quality and aesthetic values, and protect property values. Relief sought included stoppage of the project, use of alternative routes, and undergrounding the line.

Several persons also contend that inadequate or improper notice of this proposed project was provided to the public.

On May 6, 1993, the Council considered motions and requests to stop work, reopen, and investigate alternatives for the construction of this facility. These motions and requests also contended that the proposed facility would create potential health effects associated with electric and magnetic fields; would have negative effects on the Southport Historic District; that certain project alternatives would reduce health effects, better preserve scenic quality and aesthetic values,

and protect property values; and that inadequate notice of the proposed project was provided to the public.

On May 6, 1993, the Council denied these motions and requests stating:

"... that the subject matter of all motions, requests, and contentions to re-evaluate this case and reinvestigate issues, has already been carefully considered by the Council in deciding this application nearly two years ago, on September 18, 1991. No one has introduced new information or facts that were not available at that time.

"Because of a legal expectation of finality of a decision, we must find a compelling reason to reverse our decision or reopen this proceeding. After considering each and every motion, request, and contention, we find no such compelling reason."

The motions before us now claim that there are changed conditions, new information, new technology, and technological breakthroughs that have occurred since the Council made its decision on the application on September 18, 1991.

On June 29, 1993, the Council announced that it would conduct a public hearing on the motions to reopen and reconsider the construction of the facility. This hearing was held on July 13, 1993, beginning at 7:00 P.M. at the Fairfield High School Auditorium in Fairfield, Connecticut.

After announcing the public hearing on the motions to reopen, the Council solicited written comments and consultation from the Connecticut State Departments of Environmental Protection, Health Services, Public Utility Control, Economic Development, Transportation, the State Council on Environmental Quality, and the State Office of Policy and Management.

Introduction

This facility was proposed to the Council by the Connecticut Light and Power Company and the United Illuminating Company on January 25, 1991, and approved by the Council on September 18, 1991. The facility consists of a new 15.3 mile, 115kV transmission line within an existing railroad right-of-way. The overhead line will be adjacent to existing electric distribution lines and an existing 115kV transmission line located on the opposite side of the railroad right-of-way. The line will run through Bridgeport, Fairfield, Westport, and Norwalk. In relying on the Certificate of Environmental Compatibility and Public Need granted by the Council, the utilities have completed a substantial portion of the project.

The application was served on the chief executive officer of each affected municipality, all zoning commissions, planning commissions, planning and zoning commissions, conservation

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commissions, and inland wetland agencies of each municipality, the regional planning agencies which encompass the municipalities, the State Attorney General, each member of the legislature in whose assembly or senate district the facility was proposed for, and the State Department of Environmental Protection, the Department of Health Services, the Council on Environmental Quality, the Department of Public Utility Control, the Office of Policy and Management, the Department of Economic Development, and the Department of Transportation. In addition, a technical description of the project was served on the chief elected officials of each municipality affected by the proposed project 60 days prior to the application.

Notice of the application was given to the general public by publication in the Bridgeport Telegram-Bridgeport Post on January 18, 1991, the Hartford Courant on January 18, 1991, the Fairfield Citizen-News on January 18, 1991, the Westport News on January 18, 1991, and the Norwalk Hour on January 22, 1991.

Parties and intervenors to the proceeding included the United Illuminating Company, the Connecticut Light and Power Company, the Office of Consumer Counsel, Starrett Housing Corporation, the City of Norwalk, the Town of Westport, the Connecticut Municipal Electric Energy Cooperative, and the Railroad Neighbor's Association.

The Office of Consumer Counsel, the Department of Health Services, the Department of Environmental Protection, and the State Historic Preservation Office of the Connecticut Historic Commission submitted written comments into the record.

The Council, after giving public notice, held a public hearing on this application on April 29, 1991, beginning at 1:00 P.M. and continuing at 7:00 P.M. in the auditorium of the Westport Town Hall. Notice of this public hearing was provided in ten point print in the Fairfield Citizen-News on March 6, 1991, the Norwalk Hour on March 5, 1991, the Hartford Courant on March 5, 1991, and the Bridgeport Telegram-Bridgeport Post on March 6, 1991.

Members of the Council and its staff conducted a public field inspection of the proposed and alternative line routes on April 29, 1991.

On September 18, 1991, the Council approved this proposed facility issuing a Certificate of Environmental Compatibility and Public Need as provided by section 16-50k of the Connecticut General Statutes, with conditions limiting the construction and operation of the proposed transmission line. No appeal was taken from this decision.

Decision

In deciding these motions and requests to reopen, we acted under Connecticut General Statutes section 4-181a (b) which

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allows us to reverse or modify a final decision on a showing of changed conditions.

On the question of whether the Council considered the potential health effects associated with electric and magnetic fields: the Council did consider existing and future levels of exposure from electric and magnetic fields and potential health effects from such exposure. In its decision, the Council established maximum operation levels, and required the use of compact spacing and reverse phasing of conductors to reduce exposure levels. In addition, the Council required both pre-construction and post-construction measurements of exposure levels. Furthermore, although the Council acknowledged that no State or federal standards had been developed limiting electric or magnetic fields, the Council ordered the Certificate holders to comply with all future electric and magnetic field standards promulgated by State or federal regulatory agencies. Upon the establishment of any such standards, the transmission line granted by the decision and order would be brought into compliance with such standards as soon as practical.

In response to the Council's solicitation of comments from state agencies, on July 20, 1993, the Department of Public Health, now called the Department of Public Health and Addiction Services ("DPHAS"), stated:

"DPHAS is cognizant of the Karolinska Institute report Magnetic Fields and Cancer in People Residing Near Swedish High Voltage Power Lines, June 1992, submitted to the Council in support of the motion to reopen. This may be regarded as another study supportive of the hypothesis that exposure to magnetic fields from high voltage power lines and electric equipment can increase the risks for certain types of cancer. There are however also a number of facts and studies that contradict this hypothesis.

"However at this time we do not feel that the Swedish study has established a definitive link between EMF and adverse effects and is therefore not sufficient reason to reopen a hearing on siting of an EMF source. As stated in our response to the legislature, the DPHAS does not feel that any mandated changes to our electrical distribution system because of EMF are warranted at this time. DPHAS will continue to monitor the current science and all relevant studies, and will update this position on an as needed basis."

Public Act 91-317, An Act Concerning Experts to Assist the Interagency Task Force Studying Electric and Magnetic Fields ("Interagency Task Force") (Connecticut General Statutes section 16-261a(a)(b)) was enacted to study potential problems associated with electric and magnetic fields. In March 1993, the Interagency Task Force issued a position stating:

"No definitive cause and effect relationship between exposure to EMF and an increase in health risk has been established.

"We are not recommending specific Voluntary Exposure Control advice for any population group, nor are we recommending changes to the electric supply systems

"... We will continue to study and research this issue and modify our recommendations, if necessary, as new information becomes available."

Although this is a controversial issue of global magnitude, we do not believe there has been a showing of changed conditions or new scientific knowledge to warrant the reopening of this proceeding on grounds that electric and magnetic fields from this transmission line may pose a health risk.

In reviewing the claims that the project would affect historic resources: the Council did consider and was provided documentation which identified the locations of areas of historic significance along the railroad, including the Southport Historic District. Furthermore, the State Historic Preservation Office of the Connecticut Historic Commission reviewed the application and did not identify the proposal as a project that would adversely affect historic resources. We do not find any changed conditions on this subject to reopen this proceeding.

On the claim that certain project alternatives would reduce health effects, better preserve scenic quality and aesthetic values, and protect property values, the Council considered the following alternatives before approving the proposed line:

- o Increasing the capacity of the existing transmission line located south of the existing railroad line.
- o Placement of the proposed line on double circuit structures on the south side of the railroad.
- o Placement of the proposed line on the existing railroad catenary system.
- o Undergrounding the proposed line within the existing railroad right-of-way using both pipe-type and solid dielectric type cables.
- o Undergrounding the proposed line within a new right-of-way using both pipe-type and solid dielectric type cables.
- o Use of system alternatives by re-routing electric energy through other existing transmission lines serving the Connecticut grid.

- o Construction of a new transmission line within other existing transmission line rights-of-way.
- o Construction of a new transmission line within a new transmission line right-of-way.
- o Development of additional electric generation in southwest Connecticut.

The Council considered all reasonable alternatives including the undergrounding of the proposed line and concluded that the proposed project was needed and was the best alternative to meet the identified need.

In weighing these alternatives the Council considered scenic quality, aesthetic values, potential health risks, and environmental impacts. No new information was offered on this subject to justify reopening this proceeding.

In response to claims that the proceeding was inadequately noticed: this is not a changed condition that would justify a reopening of the proceeding. Nonetheless, 60-day pre-application reviews with municipal officials; public notice of the application; service of the application to town officials, State legislators, and State officials; notice of the hearing and public field review; and notice of a pre-hearing conference were fair, reasonable, and exceeded all legal notice requirements.

Conclusion

In conclusion we find that the subject matter of all motions, requests, and contentions to re-evaluate this case and reinvestigate issues, has already been carefully considered by the Council in deciding this application nearly two years ago, on September 18, 1991. We know of no new information or facts that were not available at that time that would compel us to reopen this case. We have not identified any unknown or unforeseen events or any relevant circumstances that would compel us to reopen this case. There have been no scientific or technological breakthroughs that would have altered our analysis. Our analysis remains valid today and consistent with State law and State policy, including policy from the State Department of Public Health and Addiction Services and the Department of Environmental Protection.

Because of a legal expectation of finality of a decision, we must find a showing of changed conditions or a compelling reason to reopen this proceeding. After considering each and every motion, request, and contention, we find no such changed conditions or compelling reasons.

Nonetheless, as decided by the Council in its decision and order dated September 18, 1991, should scientific knowledge lead to the establishment of new electric and magnetic field standards promulgated by State or federal regulatory agencies, the facility

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will be brought into compliance with such standards as soon as practical. The Council's requirements for pre-construction and post-construction monitoring of electric and magnetic fields, as ordered by the Council in its September 18, 1991, decision and order, will provide the Council the information necessary to enforce and compel compliance with its Decision and Order including compliance with new electric and magnetic fields standards, should they be promulgated by State or federal regulatory agencies. This monitoring will also provide information to help the public understand the nature and exposure of electric and magnetic fields from not only this transmission line, but also from internal sources within their homes, schools, and businesses.

While we have decided this application to balance the need for adequate and reliable public utility services at the lowest reasonable cost to protect consumers, public health, and the environment, the controversy surrounding potential health effects associated with electric and magnetic fields has not been resolved by our decision and will not be resolved by this decision not to reopen the proceeding. Even if we were to reopen this proceeding at this time, such a reopening would not be productive because there is no new scientific or technical information that would help to resolve this global issue.

We will at this time continue to monitor this issue using all available resources including the Connecticut Department of Health and Addiction Services, the Interagency Task Force, and the United States Environmental Protection Agency for scientific and technological breakthroughs which might be considered grounds to reopen this proceeding and other Council proceedings, and/or to establish proceedings to reconsider the siting of other facilities within our jurisdiction to protect the public consistent with such new information.

By order of the Chair,

Mortimer A. Gelston

Mortimer A. Gelston

cc: Service List
Parties and Intervenors

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