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March 16, 2005

Pamela B. Katz, PE
Chairman
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Docket No. 272

Dear Chairman Katz:

We enclose the Brief of the Towns of Durham and Wallingford, and a Joint Brief on Selected Issues in the above-captioned proceeding.

Very truly yours,



Peter G. Boucher

PGB/pab

cc: Service List
648286.2

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

**NORTHEAST UTILITIES SERVICE
COMPANY APPLICATION TO THE
CONNECTICUT SITING COUNCIL
FOR A CERTIFICATE OF
ENVIRONMENTAL COMPATIBILITY
AND PUBLIC NEED ("CERTIFICATE")
FOR THE CONSTRUCTION OF A
NEW 345-KV ELECTRIC TRANSMISSION
LINE FACILITY AND ASSOCIATED
FACILITIES BETWEEN SCOVILL
ROCK SWITCHING STATION IN
MIDDLETOWN AND NORWALK
SUBSTATION IN NORWALK, INCLUDING
THE RECONSTRUCTION OF PORTIONS
OF EXISTING 115-KV AND 345-KV
ELECTRIC TRANSMISSION LINES,
THE CONSTRUCTION OF 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**

DOCKET NO. 272

MARCH 16, 2005

BRIEF OF THE TOWNS OF DURHAM AND WALLINGFORD

The Towns of Durham and Wallingford (collectively, the “Towns”) hereby submit their Brief in the above-captioned proceeding. In addition, the Towns are submitting, together with the municipalities of Cheshire, Milford and Woodbridge, a Joint Brief of even date herewith addressing issues of common concern to the Towns and each of the other aforesaid municipalities.

I. THE APPLICATION SHOULD BE DISMISSED AND PHASES I AND II REVIEWED IN A CONSOLIDATED PROCEEDING

The Towns of Durham and Wallingford (the “Towns”) have consistently asserted that the Bethel to Norwalk Project approved in Docket 217 (“Phase I”) and the Middletown to Norwalk Project under review in this proceeding (“Phase II”) are in fact two halves of a single transmission facility (the “Loop”) which should be reviewed by the Council in a consolidated proceeding, so as not to deny the Towns’ right to a fair hearing on the substantial impacts of Phase I on their inhabitants. More recently, the Towns have also asserted that the Council’s sequential review of the two segments of the Loop would deny the Towns the intended benefits of P.A. 04-246.

As discussed below, the record of this proceeding has vindicated both of those positions. The Council must therefore reopen and reverse its approval of Phase I in Docket 217, dismiss the Application, and direct the Applicants to submit a consolidated proposal containing both Phase I and Phase II.

A. The Council Should Conduct a Consolidated Proceeding to Review Phases I and II, Due to the Impacts of Phase I on the Towns and the Passage of P.A. 04-246.

On September 12, 2003 (prior to the filing of the Application and during the Municipal Consultation period), the Towns submitted a Petition to Reconsider and Reverse Final Decision in Docket 217 (the "Towns Petition"), asserting, inter alia, that by segmenting the Loop for purposes of initially securing Council approval of Phase I, CL&P failed to submit to the Council for its review and approval in Docket 217 the entire "facility" at issue, as defined in Conn. Gen. Stat. § 16-50i. The Towns argued that the Council's review and approval of Phase I was an unlawful contravention of its obligation to review and consider the public need for and environmental impacts of the entire "facility"; i.e., the Loop, including in particular environmental impacts on the Towns, as required by Conn. Gen. Stat. § 16-50p and related provisions of the Council's enabling legislation the Public Utility Environmental Standards Act ("PUESA"). Towns Petition at page 9. The Towns Petition also asserted that the Council, by permitting CL&P to segment the Loop for the purpose of securing initial Council review and approval of Phase I, would severely limit the number of feasible and practical alternatives for Phase II, and would also foreclose the opportunity for the Council and municipalities impacted by Phase II (including the Towns) to assess the long-term impact of the Loop in advance of a commitment to its eventual path. Id.

Additionally, recently passed legislation amending PUESA also supports a consolidated review by the Council of Phases I and II. On June 3, 2004, the Connecticut legislature passed P. A. 04-246, which is applicable to this proceeding. P.A. 04-246 added, for the first time, electromagnetic fields ("EMF") as a specific "significant adverse effect" for the Council's consideration in its determination of "the nature of the probable environmental impact" of a transmission line facility. See, P.A.

04-246 Section 3. P.A. 04-246 also established a presumption (the “Statutory Presumption”) that a proposal to place new overhead 345 kV transmission lines adjacent to certain sensitive areas (“Statutory Facilities”), including residential areas, schools and playgrounds, is inconsistent with PUESA’s purposes. See, P.A. 04-246 Section 7. Additionally, P.A. 04-246 requires that any overhead portions of a new transmission line facility must “be contained in an area that provides a buffer zone that protects the public health and safety. . . .” See, P.A. 04-246 Section 3.¹

On July 23, 2004, the Towns submitted a Procedural Motion (“Procedural Motion”), requesting, inter alia, the relief earlier requested in the Towns Petition, and additionally asserting that the benefits of the Statutory Presumption and the buffer zones contained in P.A. 04-246 and intended for the Towns, would be denied unless that relief was granted.

As discussed herein, the record of this proceeding strongly supports the Towns’ factual and legal assertions contained in the Towns Petition and Procedural Motion, and justifies the relief requested therein.

B. The Record Demonstrates that the Towns’ Rights to a Fair Hearing and to the Intended Benefits of P.A. 04-246 Have Been Denied by the Applicants’ Segmentation of the Loop.

The record demonstrates that the Applicants’ segmentation of the Loop has denied the Towns an opportunity to address the effects of increased EMF on their inhabitants caused by Phase I, and additionally has precluded the possibility of undergrounding any portion of Phase II in the Towns, thus denying to the Towns the intended benefits of P.A. 04-246.

^{1/} The provisions of P.A. 04-246 are described in greater detail in Section II of this Brief.

Volume 6 of the Application filed on October 9, 2003, contains a table of field measurements of EMF levels along the edges of the Phase II right-of-way ("ROW"). Application, Volume 6, page 26.² For Cross-Section 2 of the ROW (including the Town of Durham), those levels were indicated as 3.0 and 4.5 milligauss ("mG"). On March 15, 2004, the Applicants submitted an "updated EMF filing" containing new "calculated" values of "existing" EMF along the Phase II ROW. For Cross-Section 2, those "calculated" levels increased to 9.2 and 13.9 mG, respectively, assuming a 15 gW system load. The Applicants contended in that filing that the prior EMF measurements in the Application were prepared before Phase I was approved by the Council, and that "the modeling has been updated to reflect the incorporation of [Phase I] approved in Docket 217." March 15th filing at page 1.

On June 17, 2004, the Council's EMF expert, Gary Ginsberg, Ph.D., filed supplemental testimony as Exhibit 6. That testimony cited a UK study concluding that there is scientific uncertainty as to whether exposure to EMF levels above 4 mG is associated with childhood leukemia. Exhibit 6 at page 1. However, based upon "suggestive positive findings for exposures above 3 or 4 mG" in other studies, Dr. Ginsberg stated that his agency, The Connecticut Department of Public Health "finds that prudent avoidance is warranted in this uncertain zone above 3 mG." Exhibit 6 at page 2.³ The updated "calculated" existing EMF levels in the March 15, 2004, filing are far in excess of that level.

^{2/} See, Towns' Joint Brief at pages 4-6, where the Towns discuss how the field measurements in the Application were not performed in accordance with the required measurement protocol. For this discussion, we assume arguendo that those measurements were properly performed.

^{3/} At the public hearing held on October 14, 2004, Dr. Ginsberg revised his earlier recommendations slightly upward, stating that "[a]bove 6 [mG] is more of our target." Tr. 10-14-04 at page 139. However, Dr. Ginsberg also reiterated at that time that "prudent avoidance should begin at levels above 3 [mG]. Id.

The above Applicants' EMF measurements and calculations establish: (1) that Phase I has had a significant deleterious environmental effect on the Towns in the form of increased levels of EMF; and (2) that those EMF levels are far in excess of the levels recommended for "prudent avoidance" by the Council's own expert. However, the Towns had no opportunity to address Phase I in Docket 217.⁴

The record also establishes that the undergrounding approved for Phase I by the Council has essentially eliminated any possibility of the Towns' obtaining undergrounding in Phase II, thus denying Durham and Wallingford the intended benefits of P.A. 04-246. On June 5, 2004, ISO-NE (the "ISO") filed testimony concluding that Phase II, "as proposed and presently designed, will not operate reliably." ISO Testimony at page 6. The ISO Testimony also explained that in the ISO's prior Regional Transmission Expansion Plans ("RTEPS") (wherein the ISO considered the Loop), "the full [L]oop configuration included as part of RTEP's assessment of system needs was an overhead line configuration. The RTEPS did not contemplate the substantial amount of underground cable in the full [L]oop that would result from the combination of underground cable required in Docket No. 217 and the amount of underground cable included in the [Phase II] Project. . . ." ISO Testimony at pages 4-5. The ISO Testimony opined that the combination of the undergrounding approved for Phase I, together with the undergrounding proposed for Phase II, introduces too much capacitance on the transmission system. ISO Testimony at pages 6-7. The ISO Testimony ultimately concluded that based on available information "and taking into

The point is that the Applicants' estimated EMF levels are in excess of any level cited by Dr. Ginsberg as a threshold for concern.

4/ The Towns' positions regarding EMF are more fully discussed in Section II of the Joint Brief.

consideration the full 345 kV [L]oop, including both Phase I, as approved in Docket 217, and Phase II, as proposed in [Docket 272], ISO has not seen a plan which results in an acceptable level of capacitance in the system. Because the proposed [Norwalk to Middletown] Project, in conjunction with Phase I, would introduce too much capacitance into the system. . . we would not find it acceptable. . . . I am not comfortable that the Norwalk to Middletown Project, as proposed. . . offers the needed degree of reliability for the transmission system in Southwestern Connecticut. . . .” ISO Testimony at pages 11-12.

Under cross-examination at the January 13, 2005, public hearing, witness for the Applicants Zaklukiewicz hypothesized that an all-overhead configuration for Phase I would increase the amount of undergrounding available in Phase II. Tr. 01-13-05 at pages 131-132.

The record thus establishes that the undergrounding approved in Phase I (which the Towns also had no opportunity to contest), has essentially eliminated any possibility of the Towns’ obtaining any undergrounding in Phase II for the purpose of protecting Statutory Facilities in the Towns, thus denying the Towns both the intended benefits of P.A. 04-246 and their rights to a fair hearing in this proceeding. For those compelling reasons, the Council must reopen and rescind its approval of Phase I, dismiss the Application, and review Phases I and II in a new consolidated proceeding.

II. IF THE COUNCIL DECLINES TO GRANT THE AFORESAID REQUESTED RELIEF, IT SHOULD DIRECT THE APPLICANTS TO UNDERGROUND OR DIVERT THE PROPOSED OVERHEAD 345 KV LINES AT LOCATIONS ADJACENT TO STATUTORY FACILITIES.⁵

5/ In addition to the reasons discussed herein for the reopening and reversal of the Council’s approval of Phase I, the dismissal of the Application, and the review of Phases I and II in a joint proceeding, the Towns are asserting additional reasons for the dismissal of the Application in Section I of the Joint Brief. In the event that the Council declines to grant any of the aforesaid relief, the Towns are requesting in the

A. P.A. 04-246 Requires Undergrounding or Buffer Zones to Protect Statutory Facilities.

The legislative intent of P.A. 04-246 was first, that transmission lines at or above 345 kV be undergrounded at locations adjacent to Statutory Facilities unless the Council determined that doing so was technically infeasible. This was done through the establishment of the Statutory Presumption. Second, if overhead transmission lines must be sited adjacent to Statutory Facilities (by reason of the rebuttal of the Statutory Presumption), such transmission lines must be contained in a buffer zone to protect Statutory Facilities from the potentially harmful effects of EMF from such lines.⁶

Section 7 of P.A. 04-246 specifically amended Conn. Gen. Stat. §16-50p to create the Statutory Presumption. New subsection (h) provides:

[f]or a facility described in subdivision (1) of subsection (a) of section 16-50i, as amended, with a capacity of three hundred forty-five kilovolts or greater, there shall be a presumption that a proposal to place the overhead portions, if any, of such facility adjacent to residential areas, private or public schools, licensed child day care facilities, licensed youth camps or public playgrounds is inconsistent with the purposes of this chapter. An applicant may rebut this presumption by demonstrating to the council that it will be technologically infeasible to bury the facility. In determining such infeasibility, the council shall consider the effect of burying the facility on the reliability of the electric transmission system of the state.

Thus, any new transmission line facility at 345 kV or higher must be undergrounded in areas adjacent to Statutory Facilities, unless it is demonstrated to the Council that it is technologically infeasible to do so. However, if such a demonstration is made, P.A. 04-246 does not permit the placement of overhead transmission lines in

alternative herein that the Council require undergrounding or route diversions to protect all Statutory Facilities in the Towns.

^{6/} The Towns' positions regarding buffer zones are discussed further in Section III of the Joint Brief.

areas adjacent to Statutory Facilities in an unfettered manner. In such event, Section 3 of P.A. 04-246 requires that overhead transmission lines:

“be contained within an area that provides a buffer zone that protects the public health and safety. . .In establishing such buffer zone, the council shall take into consideration, among other things, residential areas, private or public schools, licensed child day care facilities, licensed youth camps or public playgrounds adjacent to the proposed route of the overhead portions. . .At a minimum, the existing right-of-way shall serve as the buffer zone. . . .”

Thus, if it is satisfactorily demonstrated that undergrounding of the Phase II 345 kV lines is technically infeasible, P.A. 04-246 requires that those lines be located in a buffer zone to “protect the public health and safety” in areas adjacent to Statutory Facilities. If the necessary buffer zone cannot be designated, by reason of excessive EMF levels at the borders thereof or the intrusion of Statutory Facilities into the buffer zone, then it is clear that alternative siting of those lines (in bypasses or other route diversions) must be utilized to protect Statutory Facilities, given P.A. 04-246’s stated goal of protecting public health and safety.⁷ In the interpretation of any statute, it is essential to bear in mind the purpose of its enactment. Austin v. Housing Authority of City of Hartford, 143 Conn. 338, 122 A.2d 399 (1956).

B. The Towns Have Identified Statutory Facilities Within Their Borders

The Towns have identified Statutory Facilities within their borders in this proceeding. In Durham, the identified Statutory Facilities are the following (3) residential areas (listed from East to West): (1) Foot Hills Road/Arbutus Street/Johnson Lane; (2) the Royal Oak Neighborhood; and (3) Powder Hill Road/Skeet Club

^{7/} There is neither logic nor legislative history which supports a conclusion that Statutory Facilities located within a buffer zone should be condemned or “taken” as a means of “protecting” them. See, Section 3 of the Joint Brief.

Road/Elihu Drive. See, letter from Durham Counsel dated July 19, 2004, to the Council (discussing Durham's preferred routes), at page 4.⁸

In addition, the Town of Durham has identified property purchased by it in 1968 known as the Dunn Hill Road Property. The Dunn Hill Road Property consists of 140 acres and is used for passive recreational activities.⁹ Letter from Durham First Selectwoman Maryann Boord to Council Chairman Katz dated January 13, 2004, at page 1.

With regard to Wallingford, on January 19, 2005, Mayor William W. Dickinson, Jr. made a presentation to the Council discussing Statutory Facilities in that Town; Mayor Dickinson noted that "with over ten miles of proposed transmission route within its borders (the most of any town), Wallingford may possibly contain the largest number of protected [Statutory Facilities] under P.A. 04-246, of any town." See, Statement of Wallingford Mayor William W. Dickinson, Jr. to the Connecticut Siting Council dated January 19, 2005, at page 1. Appended to Mayor Dickinson's presentation was a list of approximately twenty-five Statutory Facilities in Wallingford, including residential areas, a school and a day care center.

In addition, Mayor Dickinson identified the Williams Farm, a 94-acre parcel purchased by Wallingford with assistance from the State of Connecticut's Protected Open Space and Watershed Land Acquisition Grant Program, which the proposed

8/ The Towns' Position on the definition of "Residential Area" is discussed in Section VI.B. of the Joint Brief.

9/ The existing 115 kV transmission lines are located in a "Utility ROW" and run parallel to the northern boundary of the Dunn Hill Road Property. The existing 115 kV lines are on towers less than 60 feet tall, approximately 10 feet shorter than the surrounding tree canopy. The proposed overhead 345 kV lines would also be located in the Utility ROW, and potentially could be 135 feet tall or even taller. The 345 kV towers will have an enormous adverse impact on viewsheds within the Dunn Hill Road Property, and will likely decrease public use of the Dunn Hill Road Property. Letter from Durham First Selectwoman Maryann Boord to Council Chairman Katz dated January 13, 2004, at pages 1-2.

overhead 345 kV lines would traverse. The Williams Farm property is owned by Wallingford subject to a Conservation and Public Recreation Easement and Agreement with the State of Connecticut. That easement (“State Easement”) requires the land to be held in perpetuity in its natural and scenic state for the protection of natural resources Id. The installation of an additional 345 kV line across the Williams Farm would be incompatible with the State Easement.

C. The Applicants have Conceded that Statutory Facilities in the Towns will be Exposed to EMF Levels in Excess of Levels Recommended by the Council’s Expert.

The Applicants have conceded that Statutory Facilities in the Towns adjacent to the proposed overhead ROW will be exposed to high levels of EMF. On May 28, 2004, the Companies filed Exhibit 96, containing additional updated estimates of EMF along the Phase II ROW. Along Cross Section 2, EMF at one edge of the ROW for the proposed lines was estimated at 30.4 mG at a 15 gW system load. Exhibit 96 at page 2. Along Cross Section 5 of the route (in Wallingford), EMF at one edge of the ROW was estimated at 27.8 mG at a 15 gW system load. Id. at page 5.

More particularly, on May 24, 2004, the Applicants submitted a filing illustrating that “structures” (“believed to be residences”) will be in “magnetic fields 6mG or greater at average (15 gW) system loading” after construction of the proposed overhead lines. The Applicants estimate that there will be 22 such structures in Durham and 5 such structures in Wallingford. See, May 24, 2004 Filing at page 1.

Thus, the record establishes both that areas in the Towns will be exposed to elevated levels of EMF from Phase II, and that individual residences (constituting “residential areas” and Statutory Facilities) will be exposed to EMF levels from Phase II

in excess of those recommended by the Council's own expert, even at the more generous "prudent avoidance" threshold of 6 mG, discussed above.¹⁰

D. Because Statutory Facilities in the Towns Extend Into Proposed Overhead Transmission Rights-of-Way, the Proposed Overhead Facilities Cannot Meet the Minimum Buffer Zone Requirements of P.A. 04-246.

It is also clear from the record that Statutory Facilities (residential structures), extend *into* the proposed overhead ROW within the Towns. For example, in the Applicants' response dated 01/26/05 to Q-D-W-062 (requesting that the Applicants "[i]dentify each structure in the Town of Durham, any portion of which is within the existing right-of-way"), the Applicants identified one such structure and further conceded that "[o]ther structures that appear to encroach into the existing right-of-way, as they existed in Spring 2002, can be identified in the aerial photographs in Volumes 11 and 12 of the Application. . . ." In response to cross-examination by Counsel for the Town of Durham at the 02/01/05 hearing, Witness Bartosewicz confirmed that the identified structure in the right-of-way was a home, and that the Applicants' definition of other "structures" in the above response could include other homes. Tr. 02/01/05 at 71-72. Additionally, in the Applicants' response dated 01/26/05 to Question Q-D-W-063 (requesting identical information with respect to structures in the Town of Wallingford), the Applicants stated that such structures "that appear to encroach into the existing right-of-way, as they existed in Spring 2002, can be identified in the aerial photographs in Volume 11 of the Application. . . ."

10/ As discussed in Section II.B. of the Joint Brief, the Towns' position is that the more conservative "prudent avoidance" level of 3 mG is the correct threshold for protection of Statutory Facilities, for the reasons discussed therein.

E. The Council Must Direct the Applicants to Underground or Divert the 345 kV Lines in the Towns at Locations Adjacent to Statutory Facilities.

Because the overhead transmission lines proposed by the Applicants for the Towns: (1) expose Statutory Facilities to unacceptably high levels of EMF; and (2) cannot meet the minimum buffer zone requirements of P.A. 04-246 at locations adjacent to certain Statutory Facilities; the Council cannot, consistent with P.A. 04-246, approve the proposed overhead transmission lines adjacent to those Statutory Facilities. Those Statutory Facilities must be protected either by undergrounding, bypasses, or other route diversions to fulfill the requirements of P.A. 04-246.¹¹

The Council is required, pursuant to P.A. 04-246, to ensure that the maximum amount of undergrounding that is technically feasible is included in Phase II, to protect Statutory Facilities. With respect to what that “maximum amount” is, the Siting Council’s expert witness Richard Wakefield concluded at the February 14th, 2005, technical meeting that “something in the five mile range of additional undergrounding [over and above the twenty-four miles proposed in the Application and determined by the ROC] was probably technically feasible,” with proper mitigation. Tr. 02/14/05 at page 105. That conclusion was reiterated in the KEMA Engineering Summary dated February 16, 2005, and filed with the Council. 02/16/05 KEMA Engineering Summary at 2. Thus, the Applicants have not yet satisfied the requirements of P.A. 04-246, in that they have not

11/ One option that is clearly not available to the Applicants at this point in the proceeding is the approval by the Council of “super behemoth” towers, tall enough to reduce EMF levels at buffer zone edges to acceptable levels. There is simply no evidence in the record of the adverse environmental impacts of such towers, much less sufficient evidence to determine that those impacts are offset by the need for Phase II. See, Conn. Gen. Stat. § 16-50p(a)(2). See, also, Section I.A.ii.b. of the Joint Brief.

yet demonstrated that they have reached the limits of technically feasible undergrounding for Phase II.¹²

Given the conclusion of the Council's undergrounding expert that additional undergrounding is technically feasible, the Council should direct the Applicants to: (1) perform the necessary studies to determine that amount; and (2) site additional undergrounding in the Towns to protect Statutory Facilities therein. This conclusion is compelled by the fact that EMF from the proposed overhead lines in the Towns will be in excess of any level recommended by the Council's own EMF expert, as well as the fact that the Applicants cannot meet P.A. 04-246's minimum buffer zone requirements at locations in the Towns adjacent to certain Statutory Facilities.

If it is ultimately determined, by reason of technical infeasibility after appropriate further studies, that there is not sufficient undergrounding available to protect all Statutory Facilities in the Towns, then bypasses or other route diversions must be employed for overhead portions of Phase II adjacent to Statutory Facilities in the Towns, to ensure that all such Statutory Facilities have the minimum required buffer zone and are not exposed to EMF levels above those recommended for "prudent avoidance" by the Council's EMF expert.

With respect to Durham, one bypass – the Royal Oak Bypass – is actually supported by the Applicants to protect the Royal Oak Neighborhood. Tr. 01/19/05 at page 74. The record further supports the Council directing the Applicants to construct the Royal Oak

12/ The Council must reject KEMA's conclusions in its Engineering Study that the introduction of mitigation methods (including C-Type filters) "should be done in a conservative, step-wise process" and that "as more experience is gained with the design and use of C-Type filters they may prove to be an effective mitigating device that will permit additional underground cable to be installed." The Council is obligated, pursuant to P.A. 04-246, to direct the Applicants to "push the envelope" in determining the maximum feasible undergrounding now, for use in Phase II. See, Towns' Joint Brief at pages 57-59.

Bypass. The Royal Oak Neighborhood has been conceded by the Applicants to be a “residential area” (and thus a protected Statutory Facility). Attachment to May 13, 2004, Applicants’ Response to AG-16. The “structure” identified by the Applicants in their response dated 01/26/05 to Q–D–W-062 (and later conceded by the Applicants’ witness to be a home¹³) is located in the Royal Oak Neighborhood. For these reasons, the Royal Oak Bypass should be constructed, in order to protect the inhabitants of the Royal Oak Neighborhood. The existing 115 kV transmission lines through the Royal Oak neighborhood must be moved into the Royal Oak Bypass as well. As discussed *supra*, the increase in EMF along Cross-Section 2 caused by Phase I (which Durham had no ability to contest) has resulted in EMF levels in the Royal Oak neighborhood which are substantially higher than the levels recommended for prudent avoidance by the Council’s EMF expert Dr. Ginsberg. The Applicants have also stated on the record that moving the 115kV transmission lines into the Royal Oak Bypass is feasible. Tr. 2-1-05 at 153.¹⁴

However, as discussed supra, Durham has identified two additional Residential Areas requiring similar protection. Those two additional Residential Areas must also be protected by bypasses (including the relocation of the existing 115 kV transmission lines) or other route diversions.

With respect to Wallingford, the large number of identified Statutory Facilities in that Town, combined with space limitations, pose difficulties in an attempt to fashion bypasses for each Statutory Facility in that Town. For that reason, the Council must divert any overhead 345 kV lines proposed for Wallingford in Phase II onto an

13/ At 15 Packing House Road.

14/ An owner of property which the Royal Oak Bypass would traverse also supports that bypass. See, letter attached.

alternative route, such as the East Shore Route discussed in the letter of Wallingford Counsel dated July 19, 2004, to the Council, containing Wallingford's preferred routes.

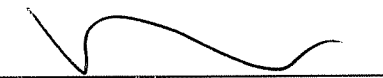
III. CONCLUSION

For the reasons contained in Section I of this Brief, the Council must reopen and reverse its approval of Phase I in Docket 217, dismiss the Application, and direct the Applicants to submit a consolidated proposal containing both Phase I and Phase II. In the event that the Council declines to grant that relief, the Council must dismiss the Application, for the reasons contained in Section I of the Joint Brief. If the Council declines to grant that relief, it must direct the Applicants to underground the portions of Phase II in the Towns, adjacent to Statutory Facilities therein. Finally, if the Council determines that it is technologically infeasible to underground each of those portions of Phase II, it must direct the Applicants to employ bypasses or other route diversions to protect those Statutory Facilities, in the manner required by P.A. 04-246.

Respectfully submitted,

THE TOWNS OF DURHAM AND
WALLINGFORD

BY



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Their Attorneys

CERTIFICATION

This is to certify that on this 16th day of March, 2005, a copy of the foregoing was either mailed, postage prepaid, or hand-delivered to each admitted party or intervenor on the service list as of the date hereof.



Peter G. Boucher

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3/9/05
STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

DOCKET NO. 272

RE: NORTHEAST UTILITIES SERVICE
COMPANY APPLICATION FOR A
CERTIFICATE OF ENVIRONMENTAL
COMPATIBILITY AND PUBLIC NEED
FOR THE CONSTRUCTION OF A
345-KV ELECTRIC TRANSMISSION
AND RECONSTRUCTION OF AN
EXISTING 115-KV ELECTRIC TRANS-
MISSION LINE BETWEEN
MIDDLETOWN AND NORWALK.

John T Moss
RFD 1 Box 170
Durham, CT 06422

Dear Chairman Katz

This letter is in regard to the proposed changes to the existing high-tension lines passing through my property. My land runs along Rt. 17 across from the Royal Oak subdivision, from Snell road to the Middletown town line.

A recent issue of the local newspaper showed a proposed route for a bypass that would relocate the existing right-of-way North along the back of my property before jogging East to bypass Royal Oak. It was my understanding that if this was done the existing lines could also be rerouted to follow this path.

Although I am not thrilled with the thought of increasing the amount of my land affected by an easement, it would certainly seem that this bypass is far and away the best solution for the community as a whole. I naturally have concerns about the project that I would like to discuss but, as long as this route would not take my house or significantly impact the current use of this land, which primarily provides a privacy barrier, I would encourage its serious consideration.

Sincerely yours

John T Moss

