

November 8, 2004

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

Re: **DOCKET NO. 272** – 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.

**Towns of Cheshire, Durham, Milford, Orange, Wallingford, and Woodbridge's Objection to Scheduling Notice**

Dear Chairman Katz:

The undersigned represents the Town of Orange in the above captioned docket but is authorized to file this objection on behalf of each of the above captioned towns (collectively, the "Towns"). Its purpose is to relay to the Council the Towns' objection to the proposed hearing schedule contained in the Council notice dated November 1, 2004, for the reason that the proposed schedule constitutes a fundamental denial of the Towns' due process rights in this proceeding.

At the present time, there is no application before the Council in this proceeding. ISO-NE and now The Connecticut Light and Power Company and The United Illuminating Company (collectively, the "Applicants") have taken the position that the 345 kV transmission line facility originally proposed by the Applicants cannot be operated reliably. Furthermore, the Reliability and Operability ("ROC") Group, consisting of the Applicants and ISO-NE, has thus far conceded that they have been unable to devise an alternative to the Applicants' original proposal which they are willing to support. The ROC

Group's final report is presently anticipated in December, 2004,<sup>1</sup> This report may or may not present a technical configuration that the Applicants and ISO-NE can support as capable of reliable operation. Accordingly, until presentment of the ROC Report, there is no viable proposal before the Council that parties and intervenors can analyze, or to which parties and intervenors can propose feasible and reliable alternatives.<sup>2</sup>

The Towns note that this proceeding is the single largest docket in the history of the Siting Council and after nearly 14 months, it has not even reached square one – a workable application. Therefore, as a general proposition, it is quite apparent that a technical configuration identified by the ROC Group cannot be thoroughly reviewed and analyzed by all parties, and the public hearings in this docket concluded, within approximately one and a half months of the filing of the ROC Report, without running roughshod over the due process rights of parties and intervenors. This is particularly true of the Towns who have participated in this process and will bear the burden of any approved transmission line facility. The Towns are cognizant and sympathetic to the time constraints under which the Council is operating. However, this delay has not been created by the Towns, and those time constraints do not obviate the Council's obligation to afford due process to all parties and intervenors.

Due process also mandates a meaningful right to cross examine witnesses. See, Conn. Gen. Stat. § 16-50o(a). The Council's proposed schedule denies the Towns that right. The ROC Group's interim report dated October 8, 2004 criticizes the conclusions reached by ABB, Inc. that a VSC-HVDC configuration is an acceptable solution to the transmission needs of Southwest Connecticut. The interim ROC Group Report indicates that the ROC Group, together with GE, is performing a comprehensive review of the ABB reports. That review and analysis will presumably be included in the final ROC Report. Absent that analysis, and reasonable time for expert review of that analysis, there is no ability to conduct a meaningful cross examination of ABB. Similarly, absent the analysis in the ROC Report of the KEMA study, the presentation of a design based on that study, and sufficient time for expert review, no meaningful cross examination of KEMA can be done. For the same reasons, the dates proposed for pre-filed testimony, which may well precede the

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<sup>1</sup> The Council's hearing schedule also assumes the timely filing of the ROC report.

<sup>2</sup> As discussed infra, the Towns reserve the right to object to Council action on the ROC report on the basis that a complete new application is required.

ROC Report (and which, in any event, will allow for no meaningful review of the ROC Report by the Towns' experts), is a denial of the Towns' due process rights.

On a practical note, absent the completion of the other analyses necessary to form a conclusion as to whether or not the respective proposals of KEMA and ABB have even the potential to meet the electrical needs of Southwest Connecticut reliably, conducting hearings for the purpose of cross examination of KEMA and ABB at this stage is a waste of the Towns' limited and overextended resources.

The Towns object to the proposed January hearing dates on the ROC Report. When the ROC Report is finally submitted the Towns will be faced with a new configuration that will amount to nothing less than a new application. The proposed schedule will allow virtually no right of discovery on the ROC Report, and no opportunity to meaningfully analyze the ROC Report. It should be noted that none of the ROC Group's transients studies -- which the ROC Group has identified as essential in assessing the reliability of the system -- have been made public. It is fundamentally unfair and a denial of the Towns' due process rights to require the Towns' experts to review and analyze this new configuration and to prepare and pre-file testimony within the matter of only a few weeks after the release of the ROC Report; particularly as the Towns have no idea as to the configuration that will be proposed.

Notably, the proposed schedule provides no opportunity for the Towns to perform studies after receipt of the ROC report, or to present evidence on feasible alternatives to whatever is ultimately proposed by the ROC Group. As the Council is aware, after the ISO-NE bombshell in June, the Council requested that the Towns agree to suspend the harmonics studies which GE was to perform for the Towns, so that GE could prioritize the Applicants' reconfiguration studies. In addition, Woodbridge and Milford had engaged GE to perform town-specific studies, which studies were also suspended. Further, the Towns' expert was also engaged in load flow analyses, both regional and town specific, and premised on the base case of the configuration of the proposed route in the Application, when the technical configuration of the Applicants' proposal was rejected by ISO-NE. The Towns had no choice but to suspend these studies as well, once the Applicants withdrew support for their own Application. The Council's proposed schedule precludes the Towns from conducting any studies and penalizes them for their cooperation in suspending their studies when asked to do so by the Council in June.

Again, the Towns recognize the predicament the Council faces in attempting to compress a year's worth of proceedings into six weeks, in light of the current April 2005 deadline. But it is the Applicants and ISO-NE -- not the Towns -- who have created this untenable situation, which has now deprived the Towns of their due process rights.

The Towns also object to the requirement that topics for "clean-up days" be submitted prior to receipt of (and time for expert analysis of) the ROC Report, as well as prior to whatever further testimony may be offered in this proceeding prior to the clean-up days. The Towns cannot hypothesize as to the topics which may be required in the vacuum of a docket in which there is no pending application. Without waiving their objections in this regard, and reserving the right to amend or modify those matters to be considered, the Towns would suggest the following as necessary topics for further evidence and cross examination:

1. Health effects of EMF
2. The establishment and impacts of appropriate buffer zones
3. EMF mitigation (including regarding the effectiveness thereof)
4. Environmental and aesthetic impacts of increased tower height as only recently discussed.
5. EMF impacts of underground lines
6. Alternative routes

The Towns note that the schedule identified by the Council contains no hearing dates allocated for the Towns' direct cases. While the Towns are confident that this was simply an oversight and that the Council neither intended to deprive them of their rights to put on direct cases in this proceeding nor to undervalue the evidence they would put on by characterizing it as "cleanup", the Towns would suggest that in preparing the schedule for the balance of the proceedings the Council ensure that appropriate time is allocated for the Towns' direct cases.

Lastly, the Towns reserve the right, after receipt and review of the final ROC Report and the proposed configuration contained therein, to move to dismiss this proceeding, by reason of the fact that the configuration ultimately proposed by the Applicants may well require the filing of a new application, thus mandating compliance with all procedural requirements for a new application,

including, without limitation, municipal consultation and compliance with Public Act 04-246.

Very truly yours,

Brian M. Stone

CC: Service List  
BMS/ald