

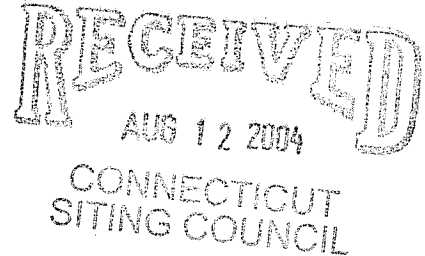
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August 12, 2004

Via Hand Delivery

Ms. Pamela Katz, P. E.
Chairman
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051



Re: Docket No. 272 – Objection of the Towns of Woodbridge, Milford, Orange, Cheshire, Wallingford, Durham and Middlefield to the Office of Consumer Counsel’s Third Set of Interrogatories

Dear Ms. Katz:

The above-captioned municipalities (collectively, the “Towns”) hereby object to the Office of Consumer Counsel’s Third Set of Interrogatories dated July 29, 2004 (“OCC Interrogatories”), for the reasons stated herein.¹

First, the OCC Interrogatories do not request relevant factual information from the Towns, the proper subject of interrogatories. Instead, the OCC Interrogatories seek the Towns’ legal positions on a host of issues. The proper forum for legal positions is a brief, which each of the Towns will file at the appropriate time, to the extent requested by the Connecticut Siting Council (the “Council”).

Second, the Towns have no obligation to respond to the OCC Interrogatories, because doing so requires the Towns to defend legal positions concerning issues for which the Towns have no burden of production, or which are outside the Council’s jurisdiction. The Public Utility Environmental Standards Act (Chapter 277a of the General Statutes, Conn. Gen. Stat. § 16-50g *et seq.*; the “Act”), requires the Council, *inter alia*, to determine a public need for a facility, the nature of the probable environmental impact of the facility “including a specification of every significant adverse effect,” and why those adverse effects are not sufficient to deny certification of the facility. See, Conn Gen. Stat. § 16-50p(a). The burden is on the Applicants to submit an application to the Council which meets the Act’s requirements. See, Conn. Gen. Stat § 16-50l. The Act imposes no burden of production on the Towns. The OCC

¹/ The undersigned represents solely the towns of Durham and Wallingford in this proceeding. The undersigned has been authorized to submit this letter on behalf of the Towns.

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Interrogatories also deal with issues of cost recovery before the Department of Public Utility Control which are completely outside of the Act's provisions and which for that reason the Council has no authority to adjudicate. Furthermore, it would be completely speculative for the Towns to begin to render opinions as to the potential extent of socialization of costs. Therefore, there is no legal basis for the Towns to respond to the OCC Interrogatories, even assuming *arguendo* that the OCC Interrogatories are a proper forum to elicit the legal positions requested therein.

The Towns also object to the OCC Interrogatories on equitable grounds. The OCC Interrogatories improperly request that the Towns defend their submission of preferred routes to the Council. Those configurations were submitted in response to a request by the Council. See, Council Notice dated June 4, 2004. The Towns understood at the time of that request, based upon representations from Council members, that responses to that request would not be binding on the Towns and that such responses could be later supplemented or superceded as appropriate. It is therefore unreasonable in the extreme for an entity other than the Council to now demand that the Towns hypothesize as to the cost treatment that other administrative agencies might apply to any proposed configurations, particularly given that the Towns had no legal obligation to propose alternative configurations in the first place. In addition to effectively penalizing the Towns for proposing alternative configurations in response to the Council's request, responding to the OCC Interrogatories would require the Towns to unnecessarily expend their limited financial resources.

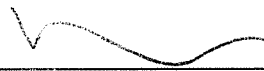
Moreover, as the OCC is well-aware, none of the Towns has yet had the ability to either provide specific proposals to the Council or to make any sort of affirmative presentation to the Council. This is because the Applicants' primary proposed route is in the process of revision, in order to address ISO-New England's recent objections to the application. The Towns agreed to suspend their transients and harmonics studies to permit GE to devote its time to studying new configurations on behalf of the Reliability and Operability Committee. At this stage, there is no clear primary proposal submitted by the Applicants, and therefore no proposed route upon which the Towns can begin to run their own studies. Indeed, in the letters and briefs which the Towns provided to the Council addressing preferred overhead and underground routes, all of the Towns reserved their rights to supplement those briefs once the Applicants presented their new proposal and the Towns had an opportunity to study it and suggest alternative configurations. Thus, the OCC's decision to inundate the Towns with discovery requests based on the briefs submitted by the Towns to the Council is patently inappropriate and unfair.

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For all of the aforesaid reasons, the Towns object to the OCC Interrogatories.

THE TOWNS OF WOODBRIDGE,
MILFORD, ORANGE, CHESHIRE,
WALLINGFORD, DURHAM AND
MIDDLEFIELD

BY



Peter G. Boucher

PGB/pab
cc: Docket No. 272 service list