



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

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To: Energy and Telecommunications Industry Representatives

From: Melanie A. Bachman, Executive Director *MAB*

Re: **Development and Management Plans – Notifications and Reporting Requirements**

Pursuant to Regulations of Connecticut State Agencies (RCSA) Sections 16-50j-60 to 16-50j-62 for energy facilities and Sections 16-50j-75 to 16-50j-77 for telecommunications facilities, the Connecticut Siting Council (Council) may require the preparation of a full or partial Development and Management (D&M) Plan to be submitted to and approved by the Council prior to commencement of facility construction.

These regulations require certain written notifications and reports before, during and after facility construction. They apply to both energy facilities and telecommunications facilities. The regulations have also been in effect since 1985 and were amended in 2012. Furthermore, compliance with the D&M Plan regulations is referenced in every declaratory ruling and decision and order issued by the Council that requires the submission and approval of a D&M Plan for a facility. Council approval of a D&M Plan does not exempt the project developer from compliance with the written notifications and reporting requirements in the D&M Plan regulations.

Unfortunately, the Council has identified major, widespread deficiencies in project developers' compliance with the written notifications and reporting requirements in the D&M Plan regulations. As a result, the Council will be conducting an audit of all facilities to identify non-compliance issues with the D&M Plan regulations and to bring those facilities into compliance.

Please be advised that the Council has a responsibility under the Public Utility Environmental Standards Act to take all reasonable steps to insure that each facility is constructed, maintained and operated in compliance with the Certificate or Declaratory Ruling issued by the Council for a jurisdictional facility and may exercise enforcement authority pursuant to Connecticut General Statutes §16-50u.

A copy of the D&M Plan regulations for both energy facilities and telecommunications facilities with the relevant written notification and reporting requirement portions highlighted is attached for convenience.

Thank you for your anticipated compliance.



ENERGY FACILITIES

Sec. 16-50j-60. Requirements for a Development and Management Plan (D&M Plan)

(a) **Purpose.**

The Council may require the preparation of full or partial Development and Management Plans (D&M Plans) for proposed energy facilities, modifications to existing facilities, or where the preparation of such a plan would help significantly in balancing the need for adequate and reliable utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state.

(b) **When required.**

A partial or full D&M plan shall be prepared in accordance with this regulation and shall include the information described in Sections 16-50j-61 to 16-50j-62, inclusive, of the Regulations of Connecticut State Agencies, for any proposed energy facility for which the Council issues a certificate of environmental compatibility and public need, except where the Council provides otherwise at the time it issues the certificate. Relevant information in the Council's record may be referenced.

(c) **Procedure for preparation.**

The D&M plan shall be prepared by the certificate holder or the owner or operator of the proposed facility or modification to an existing facility. The preparer may consult with the staff of the Council to prepare the D&M plan.

(d) **Timing of plan.**

The D&M plan shall be submitted to the Council in one or more sections, and the Council shall approve, modify, or disapprove each section of the plan not later than 60 days after receipt of it. If the Council does not act to approve, modify or disapprove the plan or a section thereof within 60 days after receipt of it, the plan shall be deemed approved. Except as otherwise authorized by the Council, no clearing or construction shall begin prior to approval of applicable sections of the D&M plan by the Council.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-62. Reporting requirements

(a) **Site Testing and Staging areas.**

The certificate holder, or facility owner or operator, shall provide the Council with written notice of the location and size of all areas to be accessed or used for site testing or staging areas. If such an area is to be used prior to approval of the D&M plan, the Council may approve such use on terms as it deems appropriate.

(b) **Notice**

(1) The certificate holder, or facility owner or operator, shall provide the Council, in writing, with a minimum of two weeks advance notice of the beginning of:

- (A) clearing and access work in each successive portion of the site and
- (B) facility construction in that same portion.

(2) The certificate holder, or facility owner or operator, shall provide the Council with advance written notice whenever a significant change of the approved D&M plan is necessary. If advance written notice is impractical, verbal notice shall be provided to the Council immediately and shall be followed by written notice not later than 48 hours after the verbal notice. Significant changes to the approved D&M plan shall include, but are not limited to, the following:

- (A) the location of a wetland or watercourse crossing;
- (B) the location of an access way or a structure in a regulated wetland or watercourse area;
- (C) the construction or placement of any temporary structures or equipment;

(D) a change in structure type or location including, but not limited to, towers, guy wires, associated equipment or other facility structures; and

(E) utilization of additional mitigation measures, or elimination of mitigation measures.

The Council, or its designee, shall promptly review the changes and shall approve, modify, or disapprove the changes in accordance with subsection (d) of section 16-50j-60 of the Regulations of Connecticut State Agencies.

(3) The certificate holder, or facility owner or operator, shall provide the Council with a monthly construction progress report, or a construction progress report at time intervals determined by the Council or its designee, indicating changes and deviations from the approved D&M plan. The Council may approve changes and deviations, request corrections or require mitigation measures.

(4) The certificate holder, or facility owner or operator, shall provide the Council with written notice of completion of construction and site rehabilitation.

(c) Final report.

The certificate holder, or facility owner or operator, shall provide the Council with a final report for the facility not later than 180 days after completion of all site construction and site rehabilitation. This final report shall identify:

(1) all agreements with abutters or other property owners regarding special maintenance precautions;

(2) significant changes of the D&M plan that were required because of the property rights of underlying and adjoining owners or for other reasons;

(3) the location of construction materials which have been left in place including, but not limited to, culverts, erosion control structures along watercourses and steep slopes, and corduroy roads in regulated wetlands;

(4) the location of areas where special planting and reseeding have been done; and

(5) the actual construction cost of the facility, including, but not limited to, the following costs:

(A) clearing and access;

(B) construction of the facility and associated equipment;

(C) rehabilitation; and

(D) property acquisition for the site or access to the site.

(d) Protective Order.

The certificate holder, or facility owner or operator, may file a motion for a protective order pertaining to commercial or financial information related to the site or access to the site.

(Effective March 7, 1989; Amended September 7, 2012)

TELECOMMUNICATIONS FACILITIES

Sec. 16-50j-75. Requirement for a Development and Management Plan (D&M plan)

(a) Purpose.

The Council may require the preparation of full or partial D&M plans for proposed community antenna television towers or head-end structures and associated equipment or telecommunications towers and associated equipment or a modification to an existing site, where the preparation of such a plan would help significantly in balancing the need for adequate and reliable utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state.

(b) When required.

A partial or full D&M plan shall be prepared in accordance with this Section and shall include the information described in Sections 16-50j-76 to 16-50j-77, inclusive, of the Regulations of Connecticut State Agencies for any proposed facility for which the Council issues a certificate or for a modification to an existing site, except where the Council provides otherwise at the time it issues the certificate. Relevant information in the Council's record may be referenced.

(c) Procedure for preparation.

The D&M plan shall be prepared by the certificate holder of the tower and associated equipment, or modification to an existing facility. The preparer may consult with the staff of the Council to prepare the D&M plan.

(d) Timing of plan.

The D&M plan shall be submitted to the Council in one or more sections, and the Council shall approve, modify or disapprove each section of the plan not later than 60 days after receipt of it. If the Council does not act to approve, modify or disapprove the plan or any section thereof within 60 days after receipt of it, the plan shall be deemed approved. Except as otherwise authorized by the Council, no clearing or construction shall begin prior to approval of applicable sections of the D&M plan by the Council.

(e) Notice.

A copy, or notice of the filing, of the D&M plan, or any section thereof, or a copy, or notice of the filing of any changes to the D&M plan, or any section thereof, shall be provided to the service list and the property owner of record, if applicable, at the same time the plan, or any section thereof, or at the same time any changes to the D&M plan, or any section thereof, is submitted to the Council.

(f) Changes to plan.

The Council may order changes to the D&M Plan including, but not limited to, vegetative screening, paint color, or fence design at any time during or after preparation of the plan.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-77. Reporting requirements

(a) Supervisory Personnel.

The certificate holder, or facility owner or operator, shall submit to the Council contact information for the personnel of the contractor assigned to the project.

(b) Notice.

(1) The certificate holder, or facility owner or operator, shall provide the Council, in writing, with a minimum of two weeks advance notice of the beginning of:

(A) clearing and access work, and

(B) construction of the tower and associated equipment.

(2) The certificate holder, or facility owner or operator, shall provide the Council with advance written notice whenever a significant modification of the approved D&M plan is necessary including, but not limited to, a change in the location of the tower, associated equipment, guy wires, or access road. The Council, or its designee shall promptly review the changes, and the Council shall approve, modify, or disapprove the changes in accordance with subsection (d) of Section 16-50j-75 of the Regulations of Connecticut State Agencies.

(3) The certificate holder, or facility owner or operator, shall provide the Council with a monthly construction progress report, or a construction progress report at time intervals determined by the Council, indicating changes and deviations from the approved D&M plan. The Council may approve the changes and deviations or request corrections or mitigating measures.

(4) The certificate holder, or facility owner or operator, shall provide the Council with written notice of completion of construction and site rehabilitation.

(c) Final report.

The certificate holder, or facility owner or operator, shall provide the Council with a final report not later than 180 days after completion of all site construction and site rehabilitation. This final report shall identify:

(1) all agreements with abutters or other property owners regarding special maintenance precautions;

(2) significant modifications of the D&M plan that were required because of the property rights of underlying and adjoining owners or for other reasons;

(3) the location of construction materials which have been left in place in the form of culverts, erosion control structures along watercourses and steep slopes, and corduroy roads in regulated wetlands;

(4) the location of special areas where special planting and reseeded have been done; and

(5) agreements between the certificate holder and public agencies authorizing public recreational use of the site to the extent of the certificate holder's property rights thereto.

(d) The final report shall include the actual construction cost of the tower and associated equipment, including, but not limited to, the following costs:

(1) construction of the tower and associated equipment;

(2) site rehabilitation; and

(3) property acquisition for site or access to site.

(e) Protective Order.

The certificate holder, or facility owner or operator, may file a motion for a protective order pertaining to commercial or financial information related to the site or access to the site.

(Effective May 28, 1985; Amended September 7, 2012)