

APPENDIX 6: PETITION FOR A DECLARATORY RULING PROCESS

PHASE 1: PRE-FILING NOTICE

Before submitting a petition for a declaratory ruling to the CSC, the petitioner must notify the following parties:³⁹

- Owners of properties abutting the proposed primary or alternative sites.
- Owners of the properties on which the facility or alternative proposed facility will be located.
- Relevant municipal officials and government agencies.

Proof of this notice must be included with the petition.⁴⁰ However, there is no specific time limit within which notice is required to be given other than “prior to filing.”

- **Letter of No Material Affect for prime farmland or core forest**

For a solar photovoltaic facility with a capacity of 2 or more megawatts proposed to be located on prime farmland or forestland, the petitioner must request a letter from the Department of Agriculture, ensuring that the facility will not materially affect the status of prime farmland, or from the Department of Energy and Environmental Protection, ensuring that such project will not materially affect the status of such land as core forest. This “Letter of No Material Affect” should be filed as part of the petition in Phase 2 below.⁴¹

PHASE 2: PETITION REVIEW AND CSC ACTION

- **Filing a petition:**

When a person files a petition for a declaratory ruling from the CSC on the applicability or validity of statutes, regulations, decisions, or orders, the request should be sent to the CSC's office by mail or in person, signed by the requester. It must include the requester's and their attorney's contact details (if applicable) and:

1. Clearly state the request's substance and nature.
2. Identify the relevant statute, regulation, decision, or order.
3. Include supporting data, facts, and arguments.
4. Attach any relevant exhibits, such as maps, drawings, diagrams, and technical specifications.

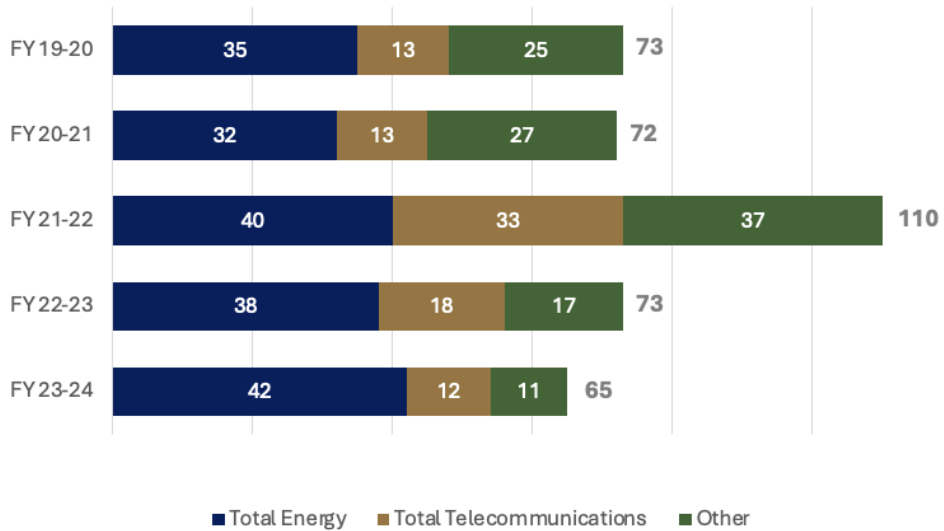
³⁹ Appropriate parties to notice are the same officials and agencies required to be given notice for an application for a Certificate under [C.G.S. Sec. 16-50k](#).

⁴⁰ [RCSA Sec. 16-50j-40\(a\)](#).

⁴¹ [Conn. Gen. Stat. Sec. 16-50k](#).

The petitioner must submit an original and 15-20 copies of its petition with a \$625 filing fee.⁴² The CSC received three hundred ninety-three (393) petitions for declaratory rulings from FY 2019 to FY 2023.

CSC - Petitions for declaratory rulings per year and type

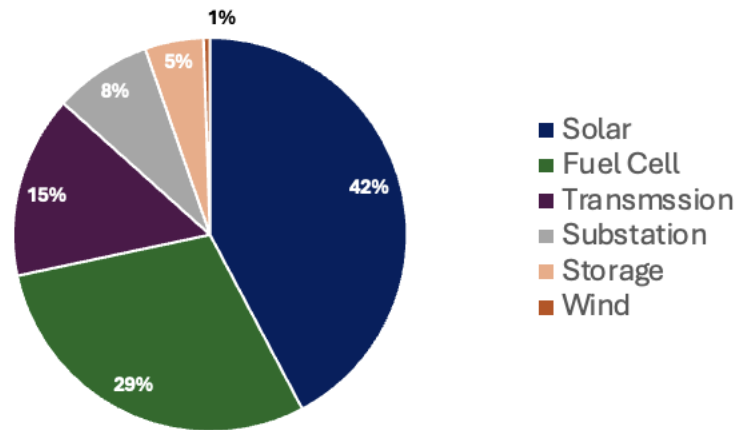


Source: Created by DEEP based on information from the CSC

The majority of these (187 petitions and 47% of the total) were for energy facilities. The figure below breaks out the 187 energy petitions received by the CSC over this five-year period classified by type of energy facility. Petitions for solar facilities (42%), fuel cells (29%), and electric transmission facilities (15%) represent the bulk of energy petitions presented to the CSC.

⁴² [Reg. Conn. Stat. Agencies Sec. 16-50v-1a.](#)

**CSC – ENERGY Petitions per type of facility,
received between FY 19-20 and FY 23-24**



Total Petitions received: 187

Source: Created by DEEP based on information from the CSC

During that same five-year period, the CSC also received 89 telecommunications petitions (22% of the total), and 117 petitions in other categories, such as reopened decisions or National electric safety code modifications.

- **CSC gives notice of petition (within 30 days of filing):**

Within 30 days of receiving a petition for a declaratory ruling, the CSC will notify all legally required parties and anyone who has requested notice on the subject. This notice will include the CSC’s contact information, a timeline for public involvement, and details about any scheduled field review of the proposed project. The CSC may also consider data, facts, arguments, and opinions from other individuals, not just the petitioner.^{43,44}

- **Consultation with other agencies (within 30 days of filing):**

The CSC informs other relevant state agencies that the petition was filed, such as the Department of Energy and Environmental Protection (DEEP), the Department of Agriculture, the Department of Public Health, and the State Historic Preservation Office (SHPO), to gather written comments and ensure a thorough assessment of the project’s potential environmental or public impacts.⁴⁵

- **Written Comments:**

Stakeholders are typically encouraged to submit written comments or testimony during the first 30 days period after the public notice of the petition filing is issued by CSC.⁴⁶

⁴³ [RCSA Sec. 16-50j-40\(a\)](#).

⁴⁴ Petition for a declaratory ruling for a renewable electric generating or energy storage facility.

⁴⁵ [RCSA Sec. 16-50j-40](#).

⁴⁶ [RCSA Sec. 16-50j-40](#).

- **CSC action (within 60 days of filing):**

However, the decision on a petition could happen much sooner than the 180-day deadline. Within 60 days of receipt of a petition, the CSC must take one of the following actions:⁴⁷

1. Issue a ruling on the validity or applicability of the relevant regulation, statute, or decision.
2. Set the matter for a specified proceeding.
3. Agree to issue a declaratory ruling by a certain date.
4. Decide against issuing a declaratory ruling and start regulation-making proceedings.
5. Decide against issuing a declaratory ruling and provide reasons for this decision.

PHASE 3: OPTIONAL PUBLIC HEARING

- **Public hearing:**

If CSC determines a public hearing is necessary to gather input or clarify specific issues raised by the petition, such a hearing shall be scheduled and notice given.

- **Public comments (within 30 days from public hearing):**

Members of the public may provide written limited appearance statements. (Parties and intervenors may not submit additional written statements).

Parties/Intervenors: May file a brief with Siting Council summarizing allegations of fact.⁴⁸

PHASE 4: DELIBERATION AND ISSUANCE

- **CSC Deliberations:**

After the consultation and the public participation process, the CSC engages in formal deliberations to review all evidence, public comments, and agency input.

- **Issuance of Declaratory Ruling (no later than 180 days from filing):**

After the deliberation, the CSC may issue a declaratory ruling, which states whether the facility needs a Certificate of Environmental Compatibility and Public Need or is exempt from needing further approval. The ruling is based on environmental and regulatory factors, and the reasoning behind the decision is explained.

The ruling is published, and all relevant parties, including the petitioner, state agencies, and any stakeholders who submitted comments, are notified of the decision.

If the ruling allows the project to proceed without further approval, the CSC may impose conditions to mitigate any potential environmental or public impacts.

- **Appeals:**

⁴⁷ [RCSA Sec. 16-50j-40.](#)

⁴⁸ [RCSA Sec. 16-50j-40](#) using the contested case provisions of [RCSA 16-50j-13 to 34, inclusive.](#)

If any party disagrees with the CSC's ruling, they have the right to appeal it to the judicial system for review within 45 days of the decision.

PHASE 5: CONSTRUCTION AND OPERATION OVERSIGHT

The CSC exercises oversight over approved Petitions, particularly when projects may impact public utility services or the environment.

- **Conditions Attached to Rulings**

When a declaratory ruling is issued, the CSC may impose specific conditions on the project to mitigate environmental or other public impacts. Failure to adhere to the conditions may result additional actions by the CSC to encourage compliance.

- **Enforcement Powers**

The CSC has clearly articulated authority to enforce compliance with its decisions on certificates. However, the CSC's oversight and enforcement authorities related to declaratory rulings on petitions are not clear. The CSC's authority in this area is important to clarify to ensure that approved projects do not expand or change in ways that might have otherwise required formal certification.

- **Periodic Reporting or Inspections**

Depending on the nature of the project, the CSC can request periodic updates or conduct site inspections to ensure compliance with environmental standards and other conditions set out in the Declaratory Ruling.

Given the CSC's capacity, inspections occur relatively infrequently although CSC staff do respond if a community member (for example) were to make a complaint about a project's operations, or if necessary post-construction reports aren't filed appropriately. CSC staff create a considerable "paper file" over time (rather than regular in-field documentation by CSC staff) that is built with ongoing reports, photos, and follow-up which according to staff has typically led to implementation of any conditions required in the CSC's approval. All post-construction reports, photos, and other materials are available for public inspection online organized by each petition or application/docket. Enforcement actions are relatively rare, but could result in fines, revocation of a Certificate, or other penalties further described in Chapter 6 of this report.