2024 CONNECTICUT SITING COUNCIL REPORT: APPENDICES

Contents

APPENDIX 1: SUMMARY OF CHANGES IN P.A. 24-144

In addition to the requirement in Section 12 for DEEP to prepare this report, P.A. 24-144 made several other important changes related to the work of the CSC, as summarized below.

1. Transmission Lines

Many of the amendments contained within Public Act 24-144 relate to the process for the siting of transmission lines. The timeframe within which an applicant must meet with local representatives to discuss applications for transmission lines was changed from at least 60 days prior to filing the application, to at least 90 days prior to filing the application. Additionally, the applicant is now required to provide a report, at the pre-application meeting(s) for transmission facilities, which includes a summary of the status of negotiations with property owners about right-of-way access, easements, or land acquisition.[1]

The applicant for a transmission facility is now also required to produce additional information in the application. This includes an independent appraisal evaluating individual landowner compensation for the use of a right of way, including any easements or land acquisition. Also, information must be submitted about initial and life-cycle costs, regional and localized costs, non-transmission alternatives, load evaluations, and planning studies. Further, if an applicant for a transmission line intends to submit another application within 5 years for additional related facilities located within 5 miles of the original facility, it must be discussed in the application and information must be given to the CSC.[2]

For any Certificate proceeding regarding transmission facilities, the CSC must now grant intervenor status to any person: (1) who is the owner of any property that abuts the proposed facility or that abuts a right of way in which the proposed facility is to be located and (2) who submits a written petition to the Siting Council.[3] On or after October 1, 2025, the Siting Council must find and determine additional criteria to grant a Certificate for a transmission line. The new findings must include: (1) the estimated initial and life-cycle costs for the facility and for feasible and practical alternatives; (2) the estimated regionalized and localized costs for the facility and for any feasible and practical alternatives; and (3) that estimated localized costs are reasonable compared to the benefits. The CSC must also find, after October 1, 2025, that there is a public need[4] for the facility and must consider neighborhood concerns with respect to several factors including, inter alia, public safety, and the impact that the proposed facility will have on the municipal tax base.[5]

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[1] CGS Sec. 16-50l (f) amended by P.A. 24-144.

[2] *Id.* at Sec. 16-50l (a)(1) amended by P.A. 24-144.

[3] *Id.* at Sec. 16-50n (b) amended by P.A. 24-144.

[4] *Id.* at Sec. 16-50p (a) (3)(D)(ii) amended by P.A. 24-144. "Public need exists when a facility is necessary for the reliability of the electric power supply of the state."

[5] CGS Sec. 16-50p (c)(2)(A) amended by P.A. 24-144.

2. Municipalities

Public Act 24-144 also established an increased municipal role in the siting process. The process for pre-application municipal consultations has been expanded. Prior to the application being filed, in addition to using good faith efforts to meet with the chief elected official, an applicant must now also use good faith efforts to meet with the legislative body of the municipality and each member of the CT legislature in whose assembly or senate district the facility or alternative location is located and must provide certain additional information at the meeting. The municipal participation fee for Certificates was increased from $25,000 to $40,000 (or $80,000 if the facility is in more than one municipality).[6] Municipalities are able to utilize these funds to offset their expenses of participating as a party in the CSC process. Any remaining funds, after payments are made to municipalities, are refunded to the applicant.

If an application for a Certificate is for either a telecommunications tower or now, under the amendment, for a proposed transmission line, the CSC must request that the municipality in which that facility is to be located provide the CSC with its location preferences or criteria for the siting of the facility. Those preferences must now be provided by the municipality within thirty days of the request. [7]

Ad hoc members in hazardous waste matters are now specified to be appointed by the chief elected official of the municipality that each member represents.[8]

Finally, on and after October 1, 2025, if a municipality seeks judicial review of an order issued on an application, and such municipality is a prevailing party, the court may award the municipality reasonable attorneys' fees and costs.[9]

3. Landowners

Individual landowners are also provided with more consideration in the Siting Council process. As described above, abutting property owners now have a clear pathway to intervene in Certificate proceedings concerning transmission lines.[10] Also, as set forth above, in the case of transmission lines, the application must include an appraisal of fair compensation to be provided to a property owner in connection with entering a right of way, including any easements or land acquisition.[11]

There are amendments regarding the impact solar facilities can have on neighboring residents. An applicant must notify each owner of property that abuts the proposed primary or alternative sites on which the solar facility would be located of any material changes to solar facility configuration before a Certificate is granted.[12] Additionally, the Siting Council cannot grant a Certificate without

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[6] *Id.* at Sec.16-50l (a) amended by P.A. 24-144.
[7] *Id.* at Sec. 16-50gg amended by P.A. 24-144.
[8] *Id.* at Sec. 16-50j (c)(4) amended by P.A. 24-144.
[9] *Id.* at Sec. 16-50q (b) amended by P.A. 24-144.
[10] *Id.* at Sec. 16-50n(b) amended by P.A. 24-144.
[11] *Id.* at Sec. 16-50l(a)(1)(G) amended by P.A. 24-144.
[12] *Id.* at Sec. 16-50l(c) amended by P.A. 24-144.

evaluating potential noise levels of the proposed facility and ensuring that the distance between any inverters or transformers and the property line is greater than 200 feet.[13]

When a public service company intends to acquire residential real property by condemnation, there are new notice requirements to inform landowners of the condemnation and time limitations regarding that notice.[14]

Finally, the definition of "modification" was expanded to include any change that requires the exercise of eminent domain or that expands an existing easement.[15]

4. Expanded Penalties

The CSC now has more powers and direction to enforce compliance with the Certificates it issues. If the Siting Council finds that any person has failed to secure a Certificate or has failed to comply with a Certificate, condition of such Certificate, or any other requirements, the CSC can issue a fine, order restitution, or order a combination of a fine and restitution. Public Act 24-144 also establishes a procedure for the CSC to address the violation with a process for notice and a hearing.[16] Further, as indicated above, beginning in October 2025, the superior court can award fees and costs to a municipality if it prevails on an appeal.[17]

5. General Process and Procedure

There were general procedural and process changes as well. Before the CSC holds hearings on a Certificate proposal, it is required to solicit written comments from certain state agencies. The Public Act added the Office of Consumer Counsel to the list of agencies that CSC needs to consult with and solicit written comments from and now requires that the CSC provide summaries and written responses to the comments they receive, specifically comments or concerns related to environmental justice. The CSC also must provide written responses to the positions of each intervenor.[18]

Changes were also made to membership and administration provisions. The CSC must now retain employees as it deems necessary, who must have aggregate expertise in engineering and financial analysis. Also, changes were made to more specifically define conflicts of interest for public members. Public members cannot have a substantial financial interest in, be employed by, or be professionally affiliated with any utility, facility, hazardous waste facility, or ash residue disposal area for three years prior to the public member's appointment to the CSC.[19]

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[13] *Id.* at Sec. 16-50p (c)(5) amended by P.A. 24-144.
[14] *Id.* at Sec. 16-50z(c) amended by P.A. 24-144.
[15] *Id.* at Sec. 16-50i(d) amended by P.A. 24-144.
[16] *Id.* at Sec. 16-50u amended by P.A. 24-144.
[17] *Id.* at Sec. 16-50q (b) amended by P.A. 24-144.
[18] *Id.* at Sec. 16-50j (i) and Sec. 16-50p (c)(6) amended by P.A. 24-144.
[19] *Id.* at Sec. 16-50j(b) amended by P.A. 24-144.

APPENDIX 2: CSC FILING GUIDES

Following are links to the "filing guides" provided by the CSC for either applications for Certificates, or petitions for declaratory rulings:

APPLICATION FOR CERTIFICATE - COMMUNITY ANTENNA TELEVISION OR TELECOMMUNICATION FACILITY

APPLICATION FOR CERTIFICATE - ELECTRIC OR FUEL TRANSMISSION LINE FACILITY

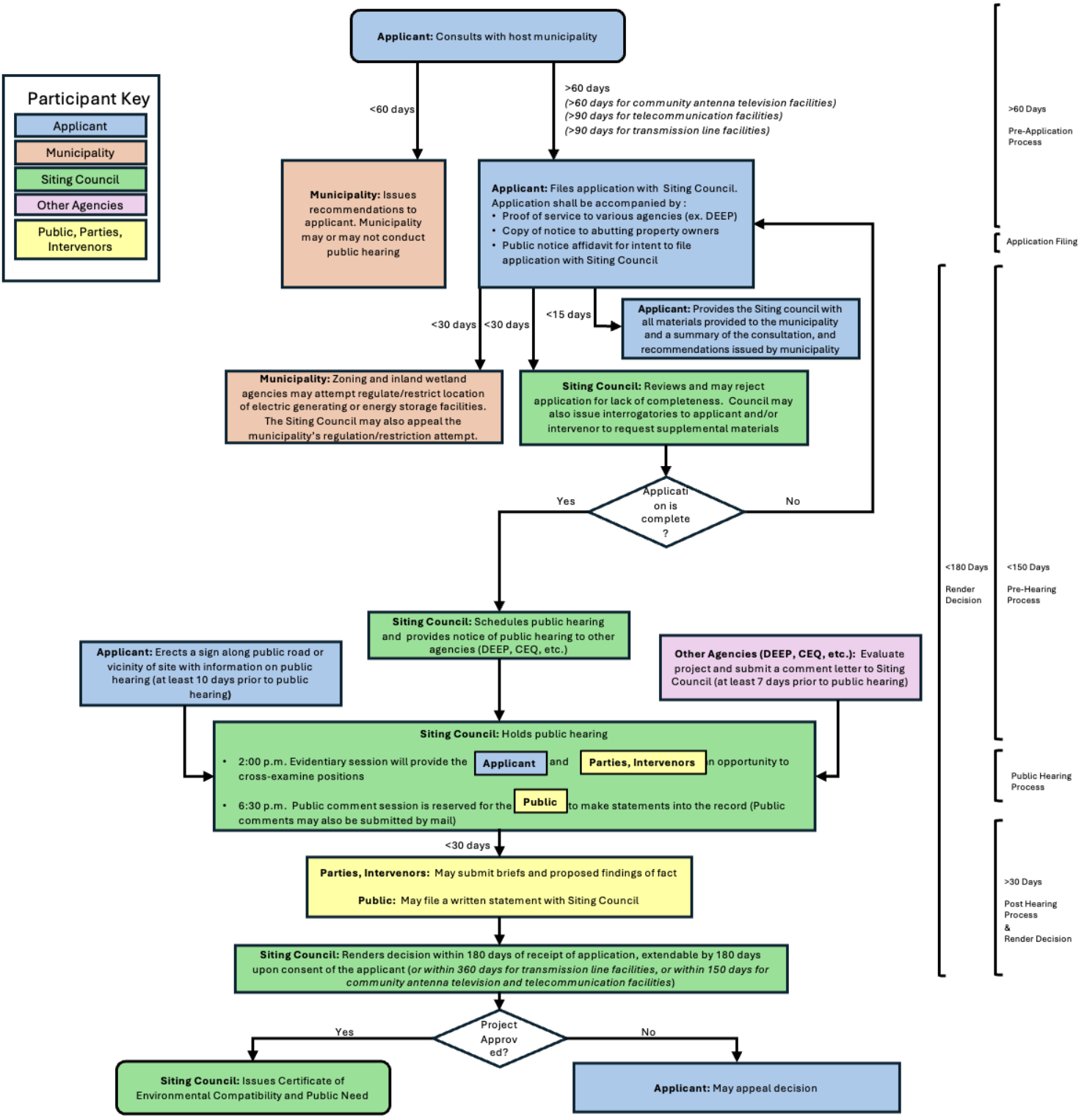
APPLICATION FOR CERTIFICATE - ELECTRIC GENERATING OR STORAGE FACILITY

PETITION FOR DECLARATORY RULING

PETITION FOR DECLARATORY RULING - NOTICE REQUIREMENTS

PETITION FOR DECLARATORY RULING - RENEWABLE ELECTRIC GENERATING OR STORAGE FACILITY

APPENDIX 3: FLOWCHART FOR ELECTRIC GENERATING AND STORAGE APPLICATIONS – OCT. 2024



Sources:
Connecticut Siting Council: Application Guide for Electric Generating or Energy Storage Facilities – October 2024
Connecticut Siting Council: Citizens Guide Siting Council Procedures for Electric Generating Facilities
Connecticut Siting Council's Notice of Public Hearing

APPENDIX 4: APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED PROCESS

PHASE 1: PRE-APPLICATION CONSULTATION

To obtain a Certificate from the CSC, the process starts with a Pre-Application consultation with the municipality no less than 60 days before filing the application (90 days for telecommunication facilities and electric transmission projects, as recently amended by Public Act 24-144) with the CSC.[20] This phase is very important to support meaningful municipal participation in the process, and involves:

- **Pre-application consultation with host municipality (60 days before applying, 90 for telecommunication facilities and electric transmission facilities):**

  During the municipal consultation process, applicants for Certificates must use good faith efforts to meet with the chief elected official (or their designee), the municipality's legislative body, and each legislature member whose district includes the proposed or alternative site.[21]
  The proponent should also share relevant information with the municipality discussing potential impacts. This can include technical reports on the facility's public need, site selection, and environmental effects. For transmission lines, Public Act 24-144 added in the requirement that these reports should include a summary of negotiations with property owners about right-of-way access, easements, or land acquisition.[22]
- **Public Information Meeting (optional):**

  Once notified of the initial consultation request, municipalities have the option of holding a local public hearing in cooperation with the applicant to discuss the project, gather community input, and advise the applicant on local preferences or concerns.[23]
- **Municipal Recommendations (submitted by the applicant within 15 days of filing the application):**

  Municipalities must submit their recommendations within 60 days of the consultation. They can propose alternative sites for projects, and applicants are required to evaluate these suggestions as part of the application process. The applicant must consider all recommendations by the municipality and submit them to the CSC within 15 days of filing the application.[24]

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[20] CGS Sec. 16-50l (f) amended by P.A. 24-144.

[21] The process for pre-application municipal consultations was expanded by Public Act 24-144 to include using good faith efforts to meet with the legislative body of the municipality and each member of the CT legislature in whose assembly or senate district the facility or alternative location is located. P.A. 24-144.

[22] CGS Sec. 16-50l (f) amended by P.A. 24-144.

[23] *Id.*

[24] *Id.*

PHASE 2: APPLICATION, CSC REVIEW, AND PUBLIC HEARING

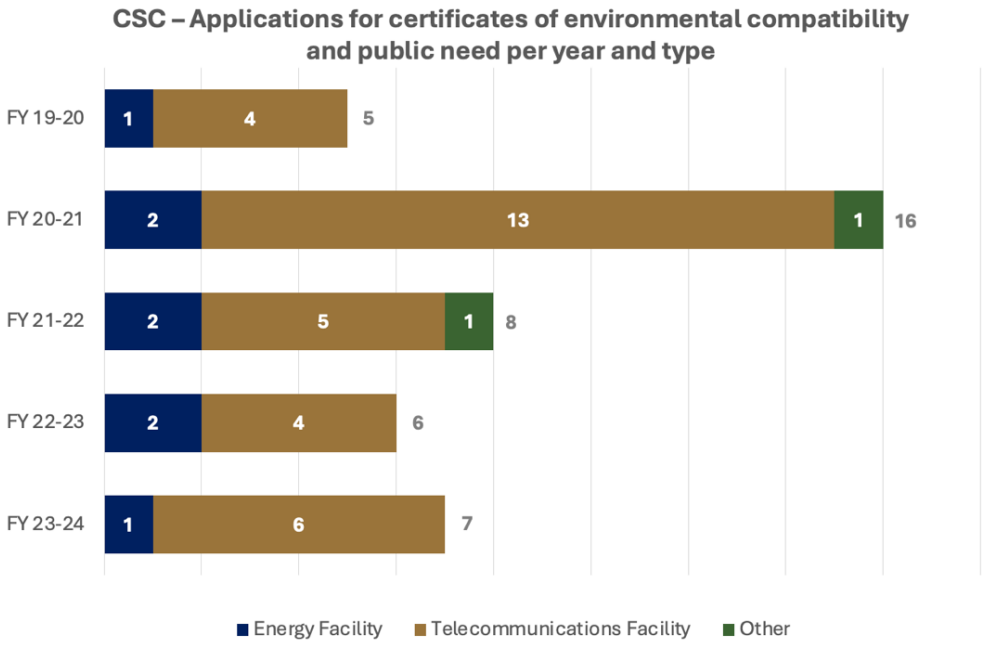
Once the pre-application consultation with the municipality is complete and the project developer files its application before the CSC, the application process formally starts. The application must contain all relevant technical, environmental, and financial information about the proposed facility. The CSC has 180 days from the date an application is submitted to render a decision, which may be extended with the applicant's consent by up to an additional 180 days. For electric transmission lines, or fuel transmission, the CSC has one year from the date an application is submitted to render a decision.[25]

- **Filing the application and giving notice:**

  The applicant submits the formal application to the Siting Council, including all necessary documentation and fees. The application must outline the project's purpose, anticipated costs, environmental impacts, and alternatives.

  The applicant must also notify relevant municipalities, state agencies, and the public about the application filing, including a summary of the application, details about the project, and instructions on how to participate. An application for a Certificate is assigned a docket number for processing purposes.

  During the five-year period from FY 2019 to FY 2023, the CSC received a total of 42 Certificate applications: 32 for telecommunication facilities (75% of the total), 8 for energy facilities (20% of the total: 5 for solar development, 2 for transmission lines, and 1 for a substation), and the remaining 2 from reopened decisions.[26]



Source: Created by DEEP based on information from the CSC

[25] CSC webpage for Frequently Asked Questions.

[26] Reopened decisions are defined in Conn. Gen. Stat. Sec. 4-181a(b).

Given the legislative and public interest in the notice process, additional details on that comprehensive noticing process are provided below.

Each application for a Certificate needs to be served on:

"(1) Each municipality in which any portion of a facility is to be located, both as primarily proposed and in the alternative locations listed, and any adjoining municipality having a boundary not more than two thousand five hundred feet from such facility, which copy shall be served on the chief executive officer of each such municipality and shall include notice of the date on or about which the application is to be filed, and the zoning commissions, planning commissions, planning and zoning commissions, conservation commissions and inland wetlands agencies of each such municipality, and the regional councils of governments which encompass each such municipality;

(2) the Attorney General;

(3) each member of the legislature in whose assembly or senate district the facility or any alternative location listed in the application is to be located;

(4) any agency, department or instrumentality of the federal government that has jurisdiction, whether concurrent with the state or otherwise, over any matter that would be affected by such facility;

(5) each state department and agency named in subsection (i) of section 16–50j;

(6) such other state and municipal bodies as the CSC may by regulation designate."[27]

Additionally, notice is "provided" (rather than "served," as it is in 1-6 above) as follows:

"(7) to the general public of effected and potentially effected municipalities.

(8) for certain facilities,[28] to each person appearing of record as an owner of property which abuts the proposed primary or alternative sites on which certain facilities would be located.

(9) for a transmission line, notice has to be provided "to each electric distribution company customer in the municipality where the facility is proposed to be placed. Such notice must (A) be provided on a separate enclosure with each customer's monthly bill for one or more months, (B) be provided by the electric distribution company not earlier than sixty days prior to filing the application with the … [CSC], but not later than the date that the application is filed with the … CSC, and (C) include: A brief description of the project, including its location relative to the affected municipality and adjacent streets; a brief technical description of the project including its proposed length, voltage, and type and range of heights of support structures or underground configuration; the reason for the project; the address and a toll-free telephone number of the applicant by which additional information about the project can be obtained; and a statement in print no smaller than twenty-four-point type size stating "NOTICE OF PROPOSED CONSTRUCTION OF A HIGH VOLTAGE ELECTRIC TRANSMISSION LINE."[29]

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[27] CGS Sec. 16-50l (b) amended by P.A. 24-144.

[28] *Id.* at Sec. 16-50j (a) (3), (4), (5) or (6) amended by P.A. 24-144.

[29] *Id.* at Sec. 16-50l (b) amended by P.A. 24-144.

(10) For any solar photovoltaic electric generating or storage facility of 25 MW or less, the applicant "also provides notice by certified or registered mail of each proposed site configuration change that occurs after the filing of the application but prior to the granting of a Certificate for the facility, that is a material change, as determined by the CSC, to each person appearing of records as an owner of property that abuts the proposed primary or alternative sites for the facility." [30]

- **Initial CSC review for completeness (within 30 days of application)**:

  Upon receiving an application, the CSC initiates an initial review to verify its completeness and compliance with requirements. Within 30 days of the submission of the application, the CSC may reject the application for lack of completeness or compel the submission of additional evidence, if necessary. This ensures that all critical information is included in the record and can be examined by the CSC and other stakeholders.

  The 180-day statutory timeframe for the CSC to render a decision only continues its course if the application is complete.

- **Public hearing date set and public notice (within 30 days of completeness approval)**:

  Once the application has been considered complete, the CSC has up to 30 days to set a date and location for a public hearing and to provide public notice. When the public hearing notice is issued, the CSC invites the public, affected municipalities, state agencies, and other stakeholders to participate in its hearing process. Direct notices are sent to affected property owners and municipalities to ensure that key stakeholders are aware of the proposal, and summaries of the application and hearing dates are published in newspapers to reach the general public. The applicant must erect a sign in the vicinity of the site with information about the public hearing at least 10 days before.

- **Consultation with other agencies (deadline 7 days before the public hearing):**

  The CSC consults with multiple state agencies, 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), among others.[31] Agencies provide written comments on the proposed project's potential impacts. This requirement ensures that the CSC can access expert evaluations from specialized agencies and enhances its ability to make evidence-based decisions. State agencies should submit their comments at least 7 days before the public hearing but may submit further comments during or after the hearing.

- **Public hearing process:**

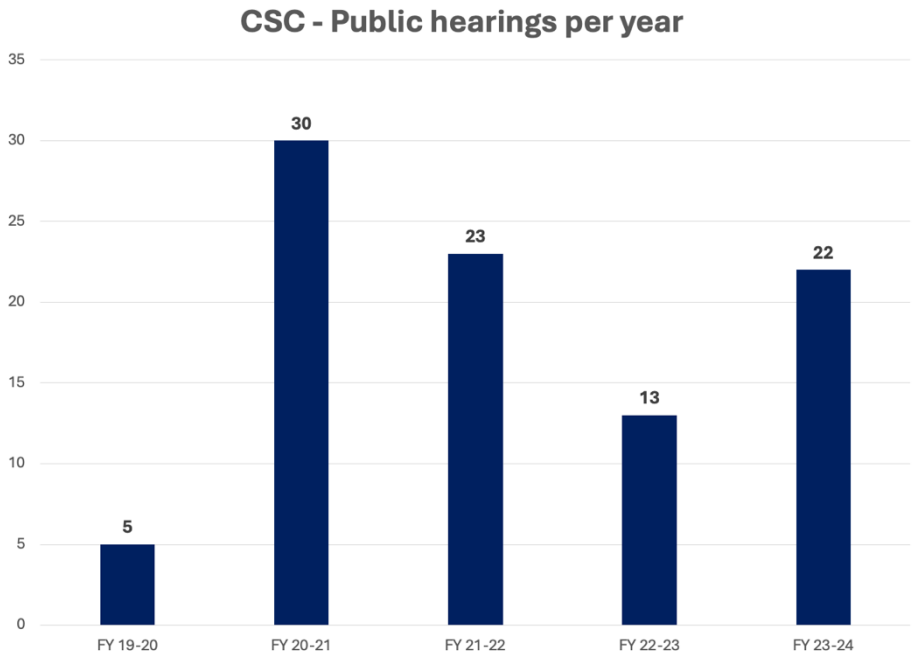
  The CSC holds at least one public hearing in the county where a proposed facility will be located. This ensures that evidence comes not only from the applicant but also from the

[30] CGS Sec. 16-50l (c) amended by P.A. 24-144.

[31] Public Act 24-144 added the Office of Consumer Counsel to the list of agencies in CGS Sec. 16-50j(i) amended by P.A. 24-144.

community and other relevant parties. These hearings have been conducted remotely since spring 2020 due to restrictions on public gatherings during the Covid 19 pandemic.

Between Fiscal Years 2019 and 2024, the CSC held 93 public hearings to develop evidentiary records and examine public concerns regarding proposed facilities.[32]



Source: Created by DEEP based on information from the CSC

Interested persons may participate in CSC public hearings in three ways:

- Party/intervenor status
- Oral limited appearance during the evening public comment session
- Written limited appearance at any time.

During hearings, parties, including intervenors, such as environmental groups and community organizations, can submit their own evidence and cross-examine the applicant, highlighting potential environmental, social, or technical concerns. The CSC records all testimony and evidence and makes it part of the evidentiary record.
The public hearing process currently includes:

- Optional Public Field Review. Field review visits have not been convened in person since the Covid-19 pandemic but prior to 2020 were held with participants and the public to observe the proposed site that may include a balloon float to simulate the height of the facility (typically, cell towers) and a summary overview of the construction plans.
- Afternoon Evidentiary Session. Held during regular business hours, usually at 2 PM, when the applicant formally presents and verifies its exhibits and is subject to cross-

[32] The chart on CSC Public hearings per year includes public hearings for both applications and petitions.

examination on the exhibits by the CSC, parties, and intervenors. If the afternoon evidentiary session does not close on the day of the public hearing, the CSC will announce a continuation of the evidentiary session. These evidentiary sessions have been held remotely via Zoom since 2020.

- Evening Public Comment Session. Held after 6:30 PM for the convenience of the public at a venue in the host municipality. During the public comment sessions, interested persons are welcome to openly express concerns about a proposed facility. Parties and intervenors may not participate in the public comment session as they are active participants in the evidentiary session that includes the right to submit written testimony and cross examine the applicant. These public comment sessions have also been held via Zoom since in-person meetings were curtailed during the Covid-19 pandemic.

The remote hearing authority under the CT Freedom of Information Act and current operating procedure allows public agencies to hold remote meetings provided that: a) The public has the ability to view or listen to each meeting or proceeding in real time, by telephone, video or other technology; b) Any such meeting or proceeding is recorded or transcribed and such recording or transcript shall be posted on the agency's website within 7 days of the meeting or proceeding; c) The required notice and agenda for each meeting or proceeding is posted on the agency's website and shall include information on how the meeting will be conducted and how the public can access it; d) any materials relevant to matters on the agenda shall be submitted to the agency and posted on the agency's website for public inspection prior to, during and after the meeting; and e) All speakers taking part in any such meeting shall clearly state their name and title before speaking on each occasion they speak" and that any virtual field review that an applicant conducts is submitted for the record. [33, 34]

- **Municipal Participation Account**:

  To ensure that local governments have the resources to meaningfully participate in the decision-making processes, applicants are required to pay a municipal participation fee to support the costs associated with municipal involvement. There is a $40,000 Municipal Participation Fee for electric transmission projects, which increases to $80,000 if the facility is in more than one municipality.[35] Payments from this account are made to municipalities to reduce their costs and ensure equitable participation, particularly in resource-limited areas.

- **Additional comments, responses, and development of the record:**

  After the application review, consultation, and public hearing processes, the CSC allows an additional 30-day comment period to receive additional input from state agencies, parties, intervenors, and the public. All papers and matters filed by someone making a limited appearance becomes part of the record of evidence in accordance with criteria under PUESA.

[33] Remote hearings were authorized in 2021 under the provisions of CGS Sec. 1-225a.

[34] See CSC Public Hearing General Provisions (RCSA 16-50j-18 to 24) and Procedure (RCSA 16-50j-25 to 30).

[35] CGS Sec. 16-50l amended by P.A. 24-144.

PHASE 3: DELIBERATION, CRITERIA, AND DECISION

- **CSC Deliberations:**

  The CSC's quasi-judicial decision-making process, which, as was mentioned in Chapter 1, focuses on balancing environmental protection and public need, considers the entire record of evidence, including public testimony, expert reports from state agencies, and technical submissions from the applicant and other parties. Based on these records, the CSC deliberates during regular public meetings when final decisions are rendered.

  The CSC holds between 23 and 24 regular energy and telecommunications meetings annually to deliberate and render decisions on proposed facilities.

- **Criteria used by the CSC in evaluating Applications:**

  The CSC evaluates the economic, conservation, and development impacts of the facilities that are seeking a certificate under its jurisdiction by following a structured process based on statutory guidelines.[36] The CSC must ensure that each project serves a public need[37] and its benefits outweigh potential adverse effects. The steps of the process to evaluate applications for a certificate include:

  - **Evaluation of public need:** This involves determining whether the project is necessary to meet the state's energy demands and ensuring that it aligns with long-term plans to develop and expand Connecticut's energy grid. For electric transmission lines, for instance, the CSC looks at how the project will contribute to the reliability and cost-effectiveness of the state's power supply, comparing the proposed project's costs to feasible alternatives.

  - **Environmental and conservation considerations:** The CSC thoroughly assesses the facility's potential adverse effects. This includes analyzing the project's impact on public health, safety, the natural environment, scenic and historic values, agriculture, and local ecosystems. To add environmental or energy considerations to the body of evidence reviewed through the process, the CSC consults DEEP, to examine the potential effects of a facility on air and water quality, forests, parks, and wildlife. If the project presents significant environmental concerns, the CSC considers whether these negative impacts can be mitigated effectively. Projects must also comply with federal guidelines for protecting natural, historic, and scenic areas.

  - **Economic consideration:** Economically, the CSC looks closely at the project's estimated initial and life-cycle costs, including regional and localized financial impacts. They compare the costs to the project's expected benefits, making sure that any localized costs, such as those affecting the community directly, are reasonable and justified. For instance, when evaluating transmission lines, the CSC requires a life-cycle

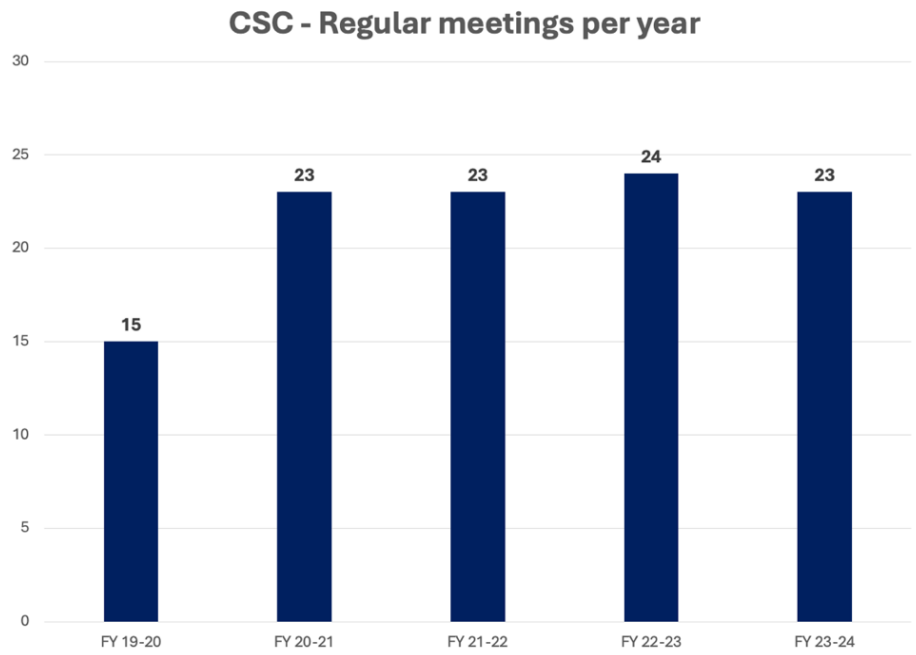
[36] *Id.* at Sec. 16-50g, et seq.

[37] *Id.* at Sec. 16-50p "Public need exists when a facility is necessary for the reliability of the electric power supply of the state."

cost analysis to determine whether underground or overhead installation is more cost-effective, considering factors like long-term maintenance and environmental disruption.

- **Development considerations:** Finally, the CSC considers development impacts, particularly regarding land use and how the project fits into the surrounding community. The CSC establishes buffer zones for projects near residential areas, schools, or parks to protect public health and minimize disruptions. They also consider neighborhood concerns, especially regarding aesthetic impacts and noise, particularly with facilities like solar photovoltaic installations.

Overall, the CSC balances the need for reliable and economic energy services with protecting Connecticut's environment and communities. Each project is scrutinized for its environmental footprint, cost-effectiveness, and long-term contribution to the state's energy infrastructure.



Source: Created by DEEP based on information from the CSC

- **Decision on the Certificate (within 180 days of receiving the application / 1 year for electric transmission facilities):**

  After deliberating, the CSC decides whether to grant or deny the Certificate, including conditions for construction, operation, and mitigation measures if granted. With the mutual consent of the applicant and the CSC, the decision deadline can be extended for up to 180 days.

Decisions must be based on the complete record, with the CSC required to consider specific factors, such as the project's environmental impact, public need, and technical feasibility. The CSC's final decision includes explaining how the evidence led to its conclusions, and it is made publicly available through the CSC website.

- **Publication of decision:**

  The CSC publishes its decision, including findings, conclusions, and any conditions imposed. This decision is made public on the CSC's website: portal.ct.gov/csc and sent to all relevant parties. If the application is approved, the CSC issues the Certificate.
- **Appeal period (no more than 45 days after decision):**

  Once the CSC has issued a decision, parties to the proceeding who are dissatisfied with the outcome can appeal it.[38] With the appeal, the courts examine whether the CSC acted within its statutory authority and whether its decision was based on substantial evidence.

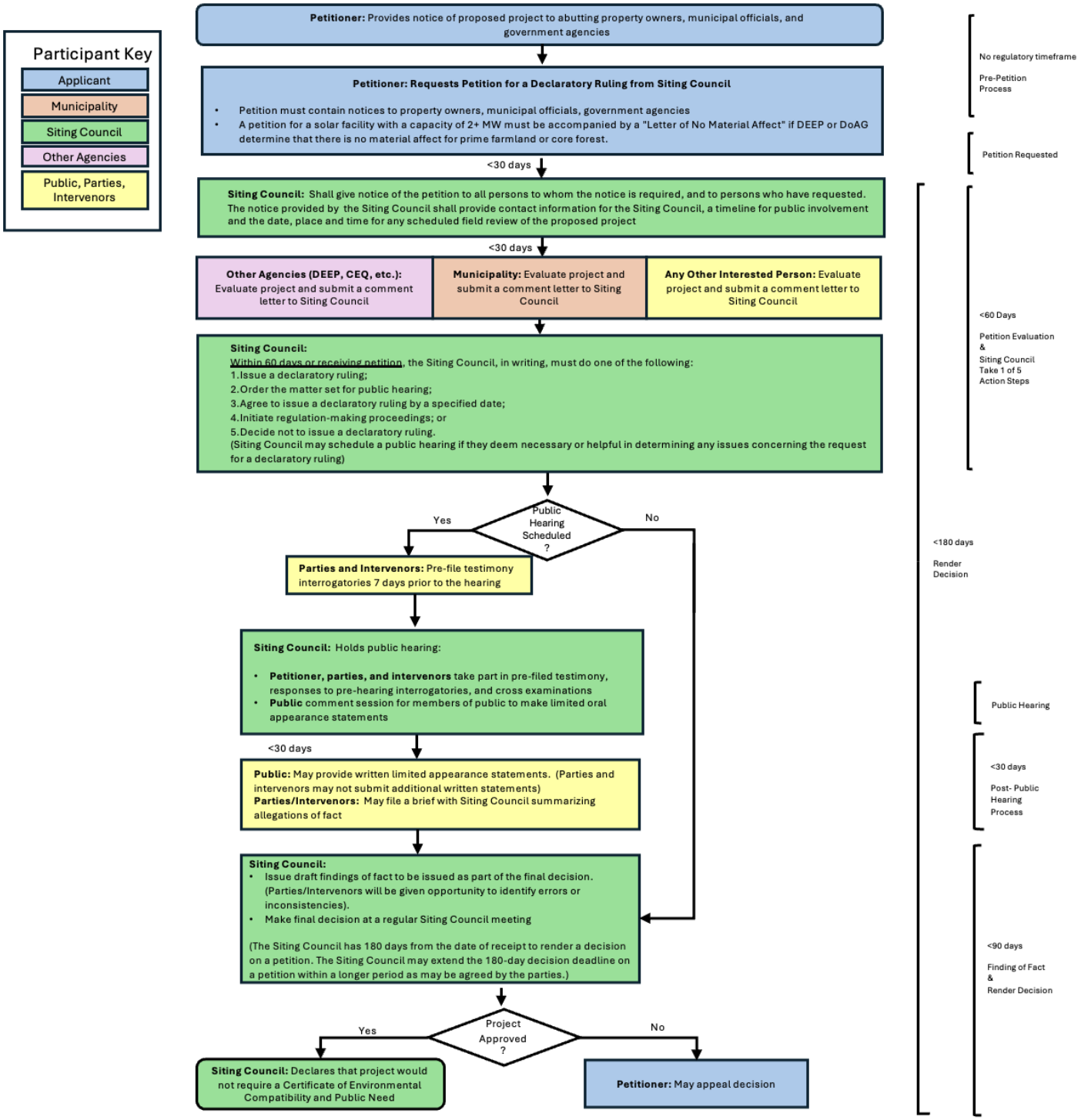
PHASE 4: CONSTRUCTION AND OPERATION OVERSIGHT

To ensure the conditions established in Certificates are followed, the CSC follows the following process if they believe a violation has occurred:

- The CSC gives notice of a potential violation, and the violator can request a hearing.
- If no hearing is requested, the notice becomes a final order.
- If a hearing is requested, it's held before the CSC, and they issue a final order.
- Any fines are recorded in the Superior Court and enforced like a court judgment.

[38] *Id.* at Sec. 16-50q amended by P.A. 24-144.

APPENDIX 5: FLOWCHART - ELECTRIC GENERATING AND STORAGE FACILITY PETITIONS – OCT. 2024



Sources:
Connecticut Siting Council: Petition Guide for Electric Generating or Energy Storage Facilities – October 2024
Connecticut Siting Council: Information Guide to Party and Intervenor Status in a Petition for a Declaratory Ruling
Connecticut Siting Council: Citizens Guide Siting Council Procedures for Electric Generating Facilities
Connecticut Siting Council: Frequently Asked Questions
Connecticut Siting Council's Notice of Public Hearing

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:

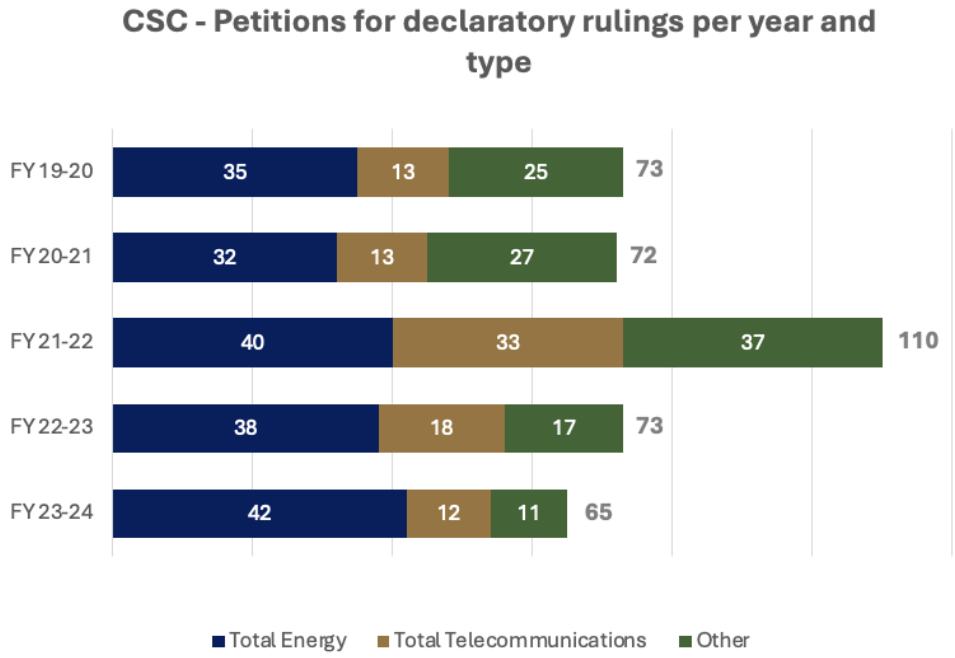
  1. Clearly state the request's substance and nature.
  2. Identify the relevant statute, regulation, decision, or order.
  3. Include supporting data, facts, and arguments.
  4. Attach any relevant exhibits, such as maps, drawings, diagrams, and technical specifications.

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

[40] RCSA Sec. 16-50j-40(a).

[41] CGS Sec. 16-50k.

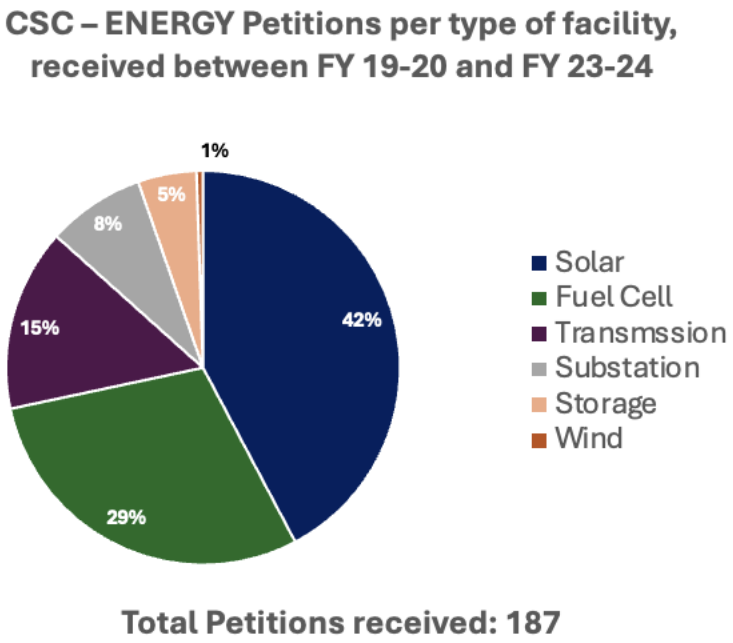
The petitioner must submit an original and 15-20 copies of its petition with a $625 filing fee.[42] The CSC received three hundred ninety-three (393) petitions for declaratory rulings from FY 2019 to FY 2023.



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] RCSA Sec. 16-50v-1a.



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] *Id.* at 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] *Id.*

- **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**:

  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.

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[47] *Id*.

[48] *Id*. using the contested case provisions of RCSA 16-50j-13 to 34, inclusive.

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.

APPENDIX 7: COMPARISON OF SITING BOARD STAFFING – CT, NH, RI, VT

There are more similarities than differences in staffing across New England siting boards. All siting boards can retain staff and have at least one staff member who acts as an administrator or executive director for the board. Also, siting boards typically have the authority to retain experts or consultants to assist in the evaluation process. Below are the specific authorities for Connecticut, New Hampshire, Rhode Island, and Vermont.

Connecticut

In Connecticut, the CSC can employ and direct such staff as may be necessary to carry out their functions and those employees should be able to provide expertise in engineering and financial analysis.[49] Additionally, the chairperson of the CSC, with the consent of five or more other members of the CSC, may appoint an executive director, who would be the chief administrative officer of the Connecticut Siting Council. The executive director is exempt from classified service.[50]

After receipt of an application for a Certificate, the CSC can also employ one or more independent consultants to study and measure the consequences of the proposed facility on the environment.[51] The CSC directs the consultant or consultants to study any matter that the CSC deems important to an adequate appraisal of the application. Any such study and any report issued as a result thereof is part of the record of the proceeding.[52]

New Hampshire

In New Hampshire, within the public utilities commission is the position of "administrator" who is an unclassified state employee. In the alternative, the position may be filled by an independent contractor. The administrator is hired by and under the supervision of the chairperson of the public utilities commission and performs duties for the public utilities commission and the site evaluation committee as directed by the chairperson of the public utilities commission, with site evaluation duties having a higher priority. To the extent the administrator performs duties for the site evaluation committee, such duties are funded by the site evaluation committee fund.[53]

The Site Evaluation Committee can delegate to the administrator (or such state agency or official as it deems appropriate) the authority to specify the use of any technique, methodology, practice or procedure approved by the committee within a certificate or the authority to specify minor changes in route alignment to the extent that such changes are authorized by the certificate for those portions of a proposed electric transmission line or energy transmission pipeline for which

[49] CGS Sec. 16-50j(g) and (h) amended by P.A. 24-144. and CGS Sec. 16-50v(f) .

[50] *Id.* at Sec. 16-50j(h) amended by P.A. 24-144.

[51] *Id.* at Sec. 16-50n(e) amended by P.A. 24-144 and CGS Sec. 16-50v(f).

[52] CGS Sec. 16-50n(e) amended by P.A. 24-144.

[53] N.H. Rev. Stat. Sec.162-H:3-a.

information was unavailable due to conditions which could not have been reasonably anticipated prior to the issuance of the certificate.[54]

The administrator, or chairperson, in the absence of an administrator, with committee approval, may engage additional technical, legal, or administrative support to fulfill the functions of the committee, as necessary. For example, the chairperson or the administrator can appoint counsel to conduct all prehearing conferences, if such appointment would promote the orderly conduct of the proceeding.[55]

The site evaluation committee can also employ a consultant or consultants, legal counsel and other staff in furtherance of its duties, the cost of which is borne by the applicant or certificate holder in such amount as may be approved by the committee. The site evaluation committee is further authorized to assess the applicant or certificate holder for all travel and related expenses associated with the processing of an application or other proceedings under this chapter.[56]

Rhode Island

In Rhode Island, the Board selects a coordinator who is responsible for the publication and distribution of all official minutes, reports, and documents and serves as the director of the board staff. The coordinator, under the direction of the chairperson, coordinates and expedites the work of various agencies that provide reports to the EFSB.[57] The board may engage any consultants or expert witnesses that it deems necessary to implement its statutory responsibilities; provided, however, that to the maximum extent possible, board staff should be drawn from existing state agencies.[58] The board can also designate officials or staff from any state agency as its agents for the purposes of investigating complaints, performing routine maintenance and issuing written cease and desist orders.[59]

Vermont

In Vermont, where the siting is done by the Department of Public Utilities, prior to the application being filed, the applicant must notify the municipal or regional planning commission of the project. The municipal or regional planning commission can, thereafter, request that the Department of Public Service exercise its authority to retain experts and other personnel to review the proposed facility. The Department of Public Service may commence retention of these personnel once the petitioner has submitted proposed plans.[60]

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[54] N.H. Rev. Stat. Sec. 162-H:4 (III) and Site Evaluation Committee Rules Site 103.04.

[55] N.H. Rev. Stat. Sec.162-H:3-a.

[56] N.H. Rev. Stat. 162-H:10.

[57] R.I. Gen. Laws Ann. Sec. 42-98-5(c).

[58] R.I. Gen. Laws Ann. Sec. 42-98-5(c).

[59] R.I. Gen. Laws Ann. Sec. 42-98-16(d).

[60] 30 V.S.A. Sec. 248 (f)(1)(B).

APPENDIX 8: COMPARISON OF REVIEW PROCESSES IN OTHER STATES – MA, NH, RI, VT

Massachusetts

The MA- EFSB and DPU Siting review process is a legal proceeding, in which the burden is on the developer or utility company to demonstrate that the proposed project meets the requirements set forth in the statutes and regulations. See EFSB and DPU Siting Process | Mass.gov. A few of the relevant processes are included below.

MA: Approval of Petitions for Approval of Construction

No "facility" can be constructed, in Massachusetts, without a petition for approval of construction being issued by the EFSB. In the case of an electric or gas company which is required to file a long-range forecast, that facility must be consistent with the most recently approved long-range forecast for that company. In addition, no applicant can commence construction of a generating facility unless a petition for approval of construction has been approved by the board. There are different rules and procedures related to petitions for approval of construction that distinguish "generating facilities" from other "non-generating facilities."[61]

A "facility" is defined as "(1) a generating facility; (2) a new electric transmission line having a design rating of 69 kilovolts or more and which is one mile or more in length on a new transmission corridor; (3) a new electric transmission line having a design rating of 115 kilovolts or more which is 10 miles or more in length on an existing transmission corridor except reconductoring or rebuilding of transmission lines at the same voltage; (4) an ancillary structure which is an integral part of the operation of any transmission line which is a facility; (5) a unit, including associated buildings and structures, designed for or capable of the manufacture or storage of gas, except such units below a minimum threshold size as established by regulation; and (6) a new pipeline for the transmission of gas having a normal operating pressure in excess of 100 pounds per square inch gauge which is greater than one mile in length except restructuring, rebuilding, or relaying of existing transmission lines of the same capacity." [62]

A "generating facility" is defined as, "any generating unit designed for or capable of operating at a gross capacity of 100 megawatts or more, including associated buildings, ancillary structures, transmission and pipeline interconnections that are not otherwise facilities, and fuel storage facilities."[63]

With respect to generating facilities, the board only reviews the environmental impacts of those facilities, because Massachusetts has a policy of allowing market forces to determine the need for and cost of such facilities.[64] The board also coordinates the permitting and licensing of certain hydropower generating facilities.[65]

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[61] M.G.L.A. 164 Sec. 69J and M.G.L.A. 164 Sec. 69J1/4.

[62] M.G.L.A. 164 Sec. 69G.

[63] Definitions for "facility" and "generating facility" are in M.G.L.A. 164 Sec. 69G.

[64] M.G.L.A. 164 Sec. 69H.

[65] M.G.L.A. 164 Sec. 69H1/2.

MA: Certificate of Environmental Impact

The EFSB can also issue certificates of environmental impact for "facilities" and "generating facilities." Such a certificate, if granted, has the legal effect of providing all state and local permits that are required for construction and operation of the facility, as requested by the applicant.[66]

With respect to "facilities," generally, an electric, gas or oil company which proposes to construct or operate a facility can petition the Board for a certificate. The EFSB will review matters where a proposed facility is potentially being blocked by government action or inaction. The board considers certificates when: (1) the electric, gas or oil company is prevented from building a facility because it cannot meet standards imposed by a state or local agency with commercially available equipment; (2) the processing or granting by a state or local agency of any approval, consent, permit or certificate has been unduly delayed for any reason; (3) the company believes there are inconsistencies among resource use permits; (4) a nonregulatory issue or condition has been raised or imposed by such state or local agencies such as, but not limited to, aesthetics and recreation; (5) the facility cannot be constructed due to any disapprovals, conditions or denials by a state or local agency or body, except with respect to any lands or interests therein, excluding public ways, owned or managed by any state agency or local government; or (6) any state or local agency has imposed a burdensome condition or limitation on any license or permit which has a substantial impact on the board's responsibilities. Also, for "generating facilities" if the facility cannot be constructed because of delays caused by the appeal of any approval, consent, permit or certificate.

Notwithstanding the provisions of any other law to the contrary, when a certificate is issued, no state agency or local government can require any approval, consent, permit, certificate or condition for the construction, operation or maintenance of the facility with respect to which the certificate is issued and no state agency or local government can impose or enforce any law, ordinance, by-law, rule or regulation nor take any action nor fail to take any action which would delay or prevent the construction, operation or maintenance of the facility.

A certificate is in the form of a composite of all individual permits, approvals, or authorizations which would otherwise be necessary for the construction and operation of the generating facility, and that portion of the certificate which relates to subject matters within the jurisdiction of a state or local agency is enforced by said agency under the other applicable laws of the commonwealth as if it had been directly granted by the said agency. [67]

The statutes further set forth: what must be contained in the petition for the certificate and the notice requirements;[68] requirements related to public hearings;[69] the parties to the proceedings;[70] and what

[66] https://www.mass.gov/doc/energy-facilities-siting-handbook-revised-january-2019.

[67] M.G.L.A. 164 Sec. 69K (non-generating) and M.G.L.A. 164 Sec. 69K ½ (generating).

[68] M.G.L.A. 164 Sec. 69L (non-generating) and M.G.L.A. 164 Sec. 69L ½ (generating).

[69] M.G.L.A. 164 Sec. 69M.

[70] M.G.L.A. 164 Sec. 69N.

needs to be included in the decision.[71]

MA: State Representative before FERC

In addition to conducting facility reviews, the MA-EFSB may represent the Commonwealth in proceedings before the Federal Energy Regulatory Commission ("FERC") having to do with the construction of interstate natural gas pipelines in Massachusetts. The MA-EFSB typically intervenes when interstate natural gas pipeline companies petition FERC to construct major interstate gas pipelines in Massachusetts. At the request of hydroelectric facility applicants seeking FERC approval, the MA-EFSB is authorized to coordinate the information collection process for permitting and licensing of hydropower generating facilities, in consultation with state and federal permitting and licensing agencies.[72]

New Hampshire

Certificate

No person can construct any energy facility in New Hampshire without first obtaining a certificate from the site evaluation committee. The facilities are constructed, operated and maintained in accordance with the terms of the certificate.[73] Sizeable changes or additions to existing facilities also require a certificate. A certificate is conclusive on all questions of siting, land and offshore uses and air and water quality.[74]

An "Energy Facility" is defined as:

> Any industrial structure that may be used substantially to extract, produce, manufacture, transport or refine sources of energy, including ancillary facilities as may be used or useful in transporting, storing or otherwise providing for the raw materials or products of any such industrial structure. This shall include, but not be limited to industrial structures such as oil refineries, gas plants, equipment and associated facilities designed to use any, or a combination of, natural gas, propane gas and liquefied natural gas, which store on site a quantity to provide 7 days of continuous operation at a rate equivalent to the energy requirements of a 30 megawatt electric generating station and its associated facilities, plants for coal conversion, onshore and offshore loading and unloading facilities for energy sources and energy transmission pipelines that are not considered part of a local distribution network; (b) Electric generating station equipment and associated facilities designed for, or capable of, operation at any capacity of 30 megawatts or more; (c) An electric transmission line of design rating of 100 kilovolts or more, associated with a generating facility under subparagraph (b), over a route not already occupied by a transmission line or lines; (d) An electric transmission line of a design rating in excess of 100 kilovolts that is in excess of 10 miles in length, over a route not already occupied by a transmission line; (e) A new electric transmission line of design rating in excess of 200 kilovolts; (f) A renewable energy facility; (g) An electrical storage facility

[71] M.G.L.A. 164 Sec. 69O (non-generating) and M.G.L.A. 164 Sec. 69O ½ (generating).

[72] https://www.mass.gov/doc/energy-facilities-siting-handbook-revised-january-2019.

[73] N.H. Rev. Stat. Sec. 162-H:5.

[74] N.H. Rev. Stat. Sec. 162-H:16.

with a peak storage capacity of 30 megawatts or greater; (h) Any other facility and associated equipment that the committee determines requires a certificate pursuant to that process.[75]

A "Renewable Energy Facility" is defined as:

> electric generating station equipment and associated facilities designed for, or capable of, operation at a nameplate capacity of greater than 30 megawatts and powered by wind energy, geothermal energy, hydrogen derived from biomass fuels or methane gas, ocean thermal, wave, current, or tidal energy, methane gas, biomass technologies, solar technologies, or hydroelectric energy. "Renewable energy facility" shall also include [under certain circumstances] electric generating station equipment and associated facilities of 30 megawatts or less nameplate capacity...[76]

Any certificate issued by the site evaluation committee is based on the record. The decision to issue a certificate in its final form or to deny an application, once it has been accepted, is made by a majority of the full membership. A certificate is conclusive on all questions of siting, land [use] and offshore uses, and air and water quality.[77]

Rhode Island

RI: License

In Rhode Island, "[n]o person shall site, construct, or alter a major energy facility within the state without first obtaining a license from the siting board...."[78] The siting board is the licensing and permitting authority for all licenses, permits, assents, or variances which, under any statute of the state or ordinance of any political subdivision of the state, would be required for siting, construction or alteration of a major energy facility in the state.[79] The licensing decision issued by the siting board constitutes the sole, final, binding, and determinative regulatory decision within the state for the purposes of siting, building, operating, or altering a major energy facility.[80]

"Major energy facilities", are defined as:

> "facilities for the extraction, production, conversion, and processing of coal; facilities for the generation of electricity designed or capable of operating at a gross capacity of forty (40) megawatts or more; transmission lines of sixty-nine (69) KV or over; facilities for the conversion, gasification, treatment, transfer, or storage of liquified natural and liquified petroleum gases; facilities for the processing, enrichment, storage, or disposal of nuclear fuels or nuclear byproducts; facilities for the refining of oil, gas, or other petroleum products; facilities of ten (10) megawatts or greater capacity for the generation of electricity by water power, and facilities associated with the transfer of oil, gas, and coal via pipeline; any energy facility project of the Rhode Island economic development corporation...."[81]

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[75] N.H. Rev. Stat. Sec. 162-H:2 (VII).

[76] N.H. Rev. Stat. Sec. 162-H:2 (XII).

[77] N.H. Rev. Stat. Sec. 162-H:16.

[78] R.I. Gen. Laws Ann. Sec. 42-98-4.

[79] R.I. Gen. Laws Ann. Sec. 42-98-7 (a)(1).

[80] R.I. Gen. Laws Ann. Sec. 42-98-12 (a).

[81] R.I. Gen. Laws Ann. Sec. 42-98-3 (d).

The board can also create regulations to further define a "major energy facility,"[82] as well as rules and regulations governing construction within the state of high-voltage transmission lines of sixty-nine (69) kV or greater.[83]

Waste to energy facilities are not considered major energy facilities.[84]

Vermont

Certificate of Public Good

With certain exceptions, no site preparation for or construction of an electric generation facility, energy storage facility, or electric transmission facility and no exercise of eminent domain can occur unless the Public Utility Commission issues a certificate that it will promote the general good of the State of Vermont. Additionally, the Public Utility Commission must issue a certificate that natural gas facilities, including natural gas transmission lines, will promote the general good of the State of Vermont (unless they fall solely within federal jurisdiction). [85]

[82] R.I. Gen. Laws Ann. Sec. 42-98-3 (d)

[83] R.I. Gen. Laws Ann. Sec. 39-25-3.

[84] R.I. Gen. Laws Ann. Sec. 42-98-3 (d).

[85] 30 V.S.A. Sec. 248 et seq.

APPENDIX 9: COMPARISON OF PROCESS AND PROCEDURES – CT, NH, RI, VT

Not all aspects of process are contained in statutes. Procedures and process are also contained in regulations and siting body rules and/or the practices of individual boards. As a broad overview the flow of the statutory process for each state is generally as follows:

- **CT**: pre-application municipal meetings, application, opinions of state agencies, evidentiary hearing/public hearing, decision.
- **RI**: advanced notice of application (if applicable), application, initial hearing and designation of state agencies for opinions, receipt of opinions, hearing, decision.
- **NH**: public information session; application; public information session, public hearing, decision.
- **MA**: application; public comment hearing, evidentiary hearing, decision.

Prior to Filing the Application

The siting board process is sometimes statutorily required to begin even before an application is filed. The procedures, however, of this pre-application process differ in each state. Connecticut statutes tend to favor robust municipal involvement in the pre-application process. For example, while New Hampshire and Vermont may require municipal notice of a project, Connecticut appears to be the only state to require that an applicant use good faith efforts to meet with multiple levels of government representatives from an affected municipality before an application can be filed. While Connecticut and Vermont allow a municipality, or the municipal or regional planning commission, to choose whether to hold a public hearing as part of the pre-application process, in New Hampshire a public meeting must be held as part of the pre-application process. A transcript of the hearing is then created, and the SEC must summarize the issues of concern raised in public hearings in the final order.

Connecticut

In Connecticut, in connection with a Certificate of Environmental Compatibility and Public Need, sixty days (or 90) prior to filing an application with the CSC, the applicant needs to use good faith efforts to consult with potentially affected municipalities concerning the proposed and alternative sites of the facility.[86] The applicant must use good faith efforts to meet with the chief elected official of the municipality, or such official's designee, the legislative body of the municipality and each member of the legislature in whose assembly or senate district the facility or any alternative location listed in the application is to be located.[87] The applicant must provide the local officials with any technical reports concerning the public need, the site selection process and the environmental effects of the proposed facility. [88] In the case of a proposed transmission line, the applicant must provide a report that includes a summary of the status of any negotiation with the owners of real property concerning any required right of way access, easements or land

[86] CGS Sec. 16-50l (f) amended by P.A. 24-144.

[87] *Id*.

[88] *Id*.

acquisition.[89] After receiving the notice, the municipality may conduct public hearings and meetings as it deems necessary for it to advise the applicant of its recommendations concerning the proposed facility.[90] Not later than sixty days after the initial consultation, the municipality will issue its recommendations to the applicant. Thereafter, within 15 days of filing the application, the applicant must provide the CSC with any materials given to the municipalities, a summary of the consultations with the municipalities and any recommendations issued by the municipality.[91]

New Hampshire

Not less than 30 days before filing an application, the applicant must hold at least one public information session in each county where the proposed facility is to be located to present information about the proposed facility and provide an opportunity for comments and questions from the public. A transcript of the hearing is prepared and included in the application. The applicant must publish, not less than 14 days before the session, public notice of the session containing certain information about the facility in the newspaper. The notice also needs to be sent to the governing body of each affected municipality. The public notice is also given to the chairman of the committee, and a transcript of the public meeting is included with the application for the certificate.[92]

Rhode Island

In Rhode Island, the pre-application process does not begin with a public hearing. Rather, the RI-ESFB gets advance notice that an application may be coming at a later point in time. The owners of any proposed energy facility, whether or not the facility qualified as a major energy facility, have to make an informational filing with the board at the time of the first application to any other agency, board, Council, or commission of the state or political subdivision of the state required to issue a permit, license, assent, or variance in order for the siting, construction, or alteration of the facility to proceed. The informational filing shall contain at least the following: (1) identification of the proposed owner(s) of the facility, including identification of all affiliates of the proposed owners; and (2) a detailed description of the proposed facility, including its function and operating characteristics, and complete plans as to all structures, including underground construction and transmission facilities, underground or aerial, associated with the proposed facility.[93]

Vermont

In Vermont, plans for the construction of a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions forty-five days in advance of the submission of an application for a certificate of public good, unless the municipal and regional

[89] *Id.*
[90] *Id.*
[91] *Id.* and CGS Sec. 16-50gg amended by P.A. 24-144.
[92] N.H. Rev. Stat. Sec. 162-H:10.
[93] R.I. Gen. Laws Sec. 42-98-20.

planning commissions waive the requirement. Thereafter, the municipal or regional planning commission may hold a public hearing on the proposed plans and request that the petitioner or the Department of Public Service, or both, attend the hearing, which they must do. The Department of Public Service then will consider the comments made and information obtained at the hearing to make recommendations to the Commission on the application to determine whether to retain additional personnel. The municipal or regional planning commission may also request that the Department of Public Service exercise its authority to retain experts and other personnel to review the proposed facility. The Department may commence retention of the personnel once the petitioner has submitted proposed plans. The Department of Public Service may allocate the expenses incurred in retaining these personnel to the petitioner. The municipal or regional planning commission can also make recommendations to the petitioner or make recommendations to the Commission. The exception to the timeframe is the relocation of an existing transmission line which must be submitted no less than 21 days prior to an application.[94]

[94] 30 V.S.A. Sec. 248 (f) and 30 V.S.A. Sec. 248 (g).

APPENDIX 10: COMPARISON OF SITING APPLICATION MATERIALS – MA, NH, RI, VT

The minimum of what must be contained in an application is set forth in each of the states' statutes and these requirements may be supplemented by additional requirements contained in the rules for the siting body. The Connecticut statutes are unique in that they differentiate what must be in applications for transmission lines from what must be in applications for other facilities. Generally, the information required by other states' statutes to be in the application is also required by Connecticut in some form and there is no apparent deficiency in Connecticut's application contents. The following is a description, limited to the statutory requirements only, of what must be contained within an application for Massachusetts, New Hampshire, Rhode Island, and Vermont.

Connecticut

In Connecticut, an application must contain such information as the applicant considers relevant, such information that the CSC or any department or agency of the state exercising environmental controls may by regulation require and certain information required by statute.[95] The statutory requirements depend on the type of facility and are generally found in Conn. Gen. Stat. Sec. 16-50l.

Also, in addition to an application, the CSC can require the applicant to submit a development and management plan.[96]

Development and Management Plan

In addition to an application, the CSC, pursuant to its regulations, also can require, the preparation of a full or partial Development and Management Plan 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. There is certain information that must be contained within the D&M plan.[97]

Public Act 24-144 recently added statutory requirements for information that must be included in D&M plans for transmission facilities. The Certificate holder shall include in any development and management plan submitted to the CSC on and after October 1, 2025, for a facility described in subdivision (1) of subsection (a) of section 16–50i (transmission line), or any modification of such a facility: (i) The estimated cost for the facility or modification, as applicable, based on the design in the development and management plan and current cost information, and (ii) the estimated regionalized and localized costs using such estimated cost. If either (I) such estimate of costs based on the design in the development and management plan and current cost information, or (II) such estimate of localized costs is greater than one hundred ten per cent of the estimated initial, life-cycle or localized costs for the facility or modification, as applicable, determined by the CSC pursuant to subparagraph (D)(ii) of subdivision (3) of subsection (a) of this section, the Certificate

[95] CGS Sec. 16-50l (a) amended by P.A. 24-144.

[96] RCSA Sec. 16-50j-60.

[97] *Id.* at Sec. 16-50j-61 and Sec. 16-50j-62.

holder shall include in the development and management plan a detailed analysis of the difference in cost estimates and shall provide any additional information requested by any member of the CSC or by any intervenors to the proceeding.[98]

Massachusetts

A petition to construct a "facility" needs to include, in such form and detail as the board shall from time to time prescribe, the following information:
(1) a description of the facility, site and surrounding areas;

(2) an analysis of the need for the facility, either within or outside, or both within and outside the Commonwealth;

(3) a description of the alternatives to the facility, such as other methods of transmitting or storing energy, other site locations, other sources of electrical power or gas, or a reduction of requirements through load management; and

(4) a description of the environmental impacts of the facility. The board is empowered to issue and revise filing guidelines after public notice and a period for comment. A minimum of data shall be required by these guidelines from the applicant for review concerning land use impact, water resource impact, air quality impact, solid waste impact, radiation impact and noise impact. [99]

A petition to construct a "generating facility" needs to include:

(i) a description of the proposed generating facility, including any ancillary structures and related facilities;

(ii) a description of the environmental impacts and the costs associated with the mitigation, control, or reduction of the environmental impacts of the proposed generating facility;

(iii) a description of the project development and site selection process used in choosing the design and location of the proposed generating facility;

(iv) either (a) evidence that the expected emissions from the facility meet the technology performance standard in effect at the time of filing, or (b) a description of the environmental impacts, costs, and reliability of other fossil fuel generating technologies, and an explanation of why the proposed technology was chosen; and

(v) any other information necessary to demonstrate that the generating facility meets the requirements for approval specified in this section.

[98] CGS Sec. 16-50p, amended by P.A. 24-144.
[99] M.G.L.A. 164 Sec. 69J.

The board also must require information to allow it to review the local and regional land use impact, local and regional cumulative health impact, water resource impact, wetlands impact, air quality impact, solid waste impact, radiation impact, visual impact, and noise impact of the proposed generating facility.[100]

New Hampshire

In New Hampshire, pursuant to statute, each application needs to contain:

Sufficient information to satisfy the application requirements of each state agency having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, and shall include each agency's completed application forms, which shall be contemporaneously filed with the state agency having jurisdiction. Upon receipt of a copy, each agency shall conduct a preliminary review to ascertain if the application contains sufficient information for its purposes. If the application does not contain sufficient information for the purposes of any of the state agencies having permitting or other regulatory authority, that agency shall, in writing, notify the chairperson or designated presiding officer and the applicant of that fact and specify what information the applicant must supply. Notwithstanding any other provision of law, for purposes of the time limitations imposed by this section, any application made under this section shall be deemed not accepted either by the chairperson or designated presiding officer or by any of the state agencies having permitting or other regulatory authority if the applicant is reasonably notified that it has not supplied sufficient information for any of the state agencies having permitting or other regulatory authority in accordance with this paragraph.

Each application also must:

Describe in reasonable detail the type and size of each major part of the proposed facility.

Identify both the applicant's preferred choice and other alternatives it considers available for the site and configuration of each major part of the proposed facility and the reasons for the applicant's preferred choice.

Describe in reasonable detail the impact of each major part of the proposed facility on the environment for each site proposed.

Describe in reasonable detail the impact of each major part of the proposed facility on existing land and offshore uses.

Describe in reasonable detail the applicant's proposals for studying and solving environmental problems.

[100] M.G.L.A. 164 Sec. 69J1/4.

Describe in reasonable detail the applicant's financial, technical, and managerial capability for construction and operation of the proposed facility.

Document that written notification of the proposed project, including appropriate copies of the application, has been given to the appropriate governing body of each affected municipality, as defined in RSA 162-H:2, I-b. The application shall include a list of the affected municipalities.

Describe in reasonable detail the elements of and financial assurances for a facility decommissioning plan.

Provide such additional information as the committee may require to carry out the purposes of this chapter.[101]

Rhode Island

In Rhode Island, the rules and regulations promulgated by the board prescribe the form and contents of applications, however, the applications need to contain at least the following:

(1) Identification of the proposed owner(s) of the facility, including identification of all affiliates of the proposed owners;

(2) Detailed description of the proposed facility, including its function and operating characteristics, and complete plans as to all structures, including underground construction and transmission facilities, underground or aerial, associated with the proposed facility. The complete plans shall be the basis for determining jurisdiction under the energy facility siting act and shall be the plans submitted to all agencies whose permit is required under the law;

(3) A detailed description and analysis of the impact of the proposed facility on its physical and social environment together with a detailed description of all environmental characteristics of the proposed site, and a summary of all studies prepared and relied upon in connection therewith; Where applicable these descriptions and analysis shall include a review of current independent, scientific research pertaining to electric and magnetic fields (EMF). The review shall provide data assessing potential health risks associated with EMF exposure. For the purposes of this chapter "prudent avoidance" shall refer to measures to be implemented in order to protect the public from EMF exposure;

(4) All studies and forecasts, complete with the information, data, methodology, and assumptions on which they are based, on which the applicant intends to rely in showing the need for the proposed facility under the statewide master construction plan submitted annually;

(5) Complete detail as to the estimated construction cost of the proposed facility, the projected maintenance and operation costs, estimated costs to the community such as safety and public

[101] N.H. Rev. Stat. Sec. 162-H:7.

health issues, storm damage and power outages, estimated costs to businesses and homeowners due to power outages, the estimated unit cost of energy to be produced by the proposed facility, and expected methods of financing the facility;

(6) A complete life-cycle management plan for the proposed facility, including measures for protecting the public health and safety and the environment during the facility's operations, including plans for the handling and disposal of wastes from the facility, and plans for the decommissioning of the facility at the end of its useful life;

(7) A study of alternatives to the proposed facility, including alternatives as to energy sources, methods of energy production, and sites for the facility, together with reasons for the applicant's rejection of these alternatives. The study shall include estimates of facility cost and unit energy costs of alternatives considered.[102]

Vermont

An application for an electric generation facility with a capacity that is greater than 50 kilowatts and for an energy storage facility that is greater than 1 megawatt, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity, must include, in addition to any other information required by the Commission:
(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils on each tract to be physically disturbed in connection with the construction and operation of the facility, the amount of those soils to be disturbed, and any other proposed impacts to those soils;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.[103]

[102] R.I. General Laws Sec. 42-98-8.
[103] 30 V.S.A. Sec. 248(a)(4)(J).

APPENDIX 11: COMPARING NOTICE PROVISIONS FOR A FILING/APPLICATION – MA, NH, RI, VT

Of the New England states, Connecticut has the broadest statutory requirements for service of an application and/or for notice of such application.

Massachusetts, however, does include an additional public notice requirement, that notice be posted in the town hall of an affected municipality. Generally, however, all of the states require some form of municipal and public notice. The majority also contemplate individual abutting landowner notice under certain circumstances. Public notice is still done by newspaper.

Massachusetts

In Massachusetts, each Petition for Approval of Construction must be served on: the mayor of each city and the board of selectmen of each town in which any part of the proposed facility is to be located, the secretary of each executive office and the attorney general. Public notice containing a summary of the petition and the date on which notice is to be filed needs to be given by publication, in such manner as the board may by regulation provide.[104]

An applicant is also instructed to distribute a Public Notice of the project via the following methods: (1) Publish a notice of its proposal to construct the project in at least two newspapers having a reasonable level of circulation within the community or region prior to the Public Comment Hearing; (2) Mail notice to owners of all property within a certain distance of the boundaries of the proposed project; and (3) Post the notice in the city or town halls of communities in which the proposed project would be located.[105]

New Hampshire

The public and municipal governments are already notified prior to the application being submitted through the pre-application process.[106]

Rhode Island

The RI-EFSB, upon receiving a utility company application, immediately notifies, in writing, the Councils of the towns and cities affected by the construction. The applicant notifies the citizens in towns and cities affected thirty (30) days prior to public meetings through local papers. The applicant also notifies abutting landowners individually, in writing, thirty (30) days prior to the hearings, by certified mail, postage prepaid.[107]

[104] M.G.L.A. 164 Sec. 69L, M.G.L.A. 164 Sec. 69L1/2.

[105] EFSB and DPU Siting Process | Mass.gov

[106] N.H. Sec. 162H:10.

[107] R.I. Gen Laws Sec. 42-98-9.1.

Vermont

After the Commission determines that a petition is complete, the petitioner serves copies of the complete petition on the Attorney General and the Department of Public Service, and, with respect to facilities within Vermont: the Department of Health; Agency of Natural Resources; Historic Preservation Division; Agency of Transportation; Agency of Agriculture, Food and Markets; and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.[108]

[108] 30 V.S.A. Sec. 248(a)(4)(C).

APPENDIX 12: COMPARISON OF PARTIES TO A PROCEEDING – CT, MA, NH, RI, VT

Who can become a party to a proceeding and the path required to become a party is not always established in the state statutes. This is sometimes done through the siting body rules or regulations. There typically exists a procedure through which a potentially affected municipality can become a party. Also, there are typically procedures where others can seek approval to intervene in a proceeding. Finally, there are often also means through which the public can comment and participate in a more limited fashion. In Connecticut, the general statutes establish who can become a party but also leave some discretion to the CSC to include other parties (not otherwise included in the statutes) that the CSC considers appropriate to include.

Connecticut

The parties to a certification or amendment proceeding or to a declaratory ruling proceeding include:

(1) The applicant, Certificate holder, or petitioner;

(2) each person statutorily entitled to receive a copy of the application or resolution,[109] if such person has filed with the CSC a notice of intent to be a party;

(3) any domestic or qualified nonprofit corporation or association formed in whole or in part to promote conservation or natural beauty, to protect the environment, personal health or biological values, to preserve historical sites, to promote consumer interests, to represent commercial and industrial groups or to promote the orderly development of the areas in which the facility is to be located, if it has filed with the CSC a notice of intent to be a party; and

(4) such other persons as the CSC may at any time deem appropriate.[110]

The CSC can allow any person to participate as an intervenor. A recent change enacted by Public Act 24-144 allows, in matters involving an electric transmission line of a design capacity of sixty-nine kilovolts or more, including associated equipment but not including a transmission line tap, any person status as an intervenor in such proceeding if such person: (1) Submits a written petition to the CSC; and (2) is the owner of any property that abuts the proposed facility, or that abuts a right-of-way in which the proposed facility is to be located.[111]

The CSC also can allow for limited appearance statements made by residents or others who can comment on the proposed application. They cannot ask questions of the petitioner, parties, intervenors, or the CSC.[112]

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[109] CGS Sec. 16–50l amended by P.A. 24-144.

[110] *Id.* at Sec. 16-50n (a) amended by P.A. 24-144.

[111] *Id.* at Sec. 16-50n (b) amended by P.A. 24-144.

[112] *Id.* at Sec. 16-50n (f) amended by P.A. 24-144.

Massachusetts

Persons or groups who wish to be involved in a Siting Division proceeding beyond providing public comments at the hearing may seek either to intervene as a party, or to participate as a limited participant. Intervention as a party is a more formal route of participation (compared to participating in the process as a limited participant) which presents an opportunity for extended involvement in the evidentiary proceeding and the right to appeal a final decision. Following is a comparison between the roles of intervenor and limited participant in Siting Division proceedings:
An Intervenor may:

- Issue information requests and receive responses;
- Present written testimony and witnesses;
- Cross-examine witnesses;
- File a brief; and
- Appeal an order or final decision.

A Limited Participant may:

- Receive copies of information requests and testimony in a proceeding;
- Receive copies of responses to information requests; and
- File a brief.[113]

New Hampshire

The Committee rules set forth the path to intervene in the proceedings. The Committee rules, however, do not appear to have been updated since the new siting laws in New Hampshire took effect in 2024.[114]

Rhode Island

The siting board determines the standards for intervention. The rules of the Board, as found on its website, establish that "any person claiming a right to intervene or an interest of such nature that intervention is necessary or appropriate may intervene in any proceeding before the board. Such right or interest may be: (1) a right conferred by statute; (2) an interest which may be directly affected and which is not adequately represented by existing parties and as to which petitioners may be bound by the Board's action in the proceeding; (3) any other interest of such nature that petitioner's participation may be in the public interest."[115]

Vermont

In Vermont, the statutes indicate certain circumstances where certain parties are to be made part of the proceedings. The regional planning commission for the region in which the facility is located has the right to appear as a party in any proceedings. The regional planning commission of an

[113] EFSB and DPU Siting Process | Mass.gov

[114] N.H. Site Evaluation Committee Practice and Procedure Rules 202.11.

[115] R.I. Gen. Laws 42-98-7 (d) and STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS.

adjacent region can appear as a party if the distance of the facility's nearest component to the boundary of that planning commission is within 500 feet or 10 times the height of the facility's tallest component, whichever is greater. The legislative body and the planning commission for the municipality in which a facility is located also have the right to appear as a party in any proceedings. The legislative body and planning commission of an adjacent municipality shall have the same right if the distance of the facility's nearest component to the boundary of that adjacent municipality is within 500 feet or 10 times the height of the facility's tallest component, whichever is greater. Certain state agencies may also have the right to appear.[116]

[116] 30 V.S.A. Sec. 248 (a)(4)(E) – (H).

APPENDIX 13: COMPARISON OF PUBLIC HEARING/INFORMATION SESSIONS – CT, MA, NH, RI, VT

The siting bodies typically hold public information sessions or public hearings and also evidentiary hearings. Members of the public are always granted some public forum in which information is shared and comments can be made about the proposed project. There is also an evidentiary hearing, where only the parties can participate. The statutes generally require at least one session of a public hearing to be held in the local area where the project is proposed to be sited. New Hampshire's structure favors public hearings and requires an applicant to hold a pre-application public information session as well as a post application public hearing. In New Hampshire, the statutes specifically require that at the initial public information session, the presiding officer explain to the public the process the committee will use to review the application for the proposed facility and the final order must contain a summary of the issues raised during the public hearing. The Vermont Department of Public Utilities also incorporates issues raised in public comments in its decision, if a public hearing is held. In contrast, in Connecticut, the municipality decides if a pre-application public hearing should be held and there is one public hearing that takes place after the evidentiary hearing.

Connecticut - for Application/Certificate

In Connecticut, the first public hearings and meetings may be initiated by a municipality after receiving initial notice of a project before the application is filed. "The municipality may conduct public hearings and meetings as it deems necessary for it to advise the applicant of its recommendations concerning the proposed facility." [117]

The CSC then sets up at least one public hearing and can take notice of any facts found at the hearing. Before conducting the hearing, the CSC must consult with and solicit comments from certain state agencies. Copies of such comments shall be made available to all parties prior to the commencement of the hearing (See Appendix 4 which further describes the CT hearing process).[118]

Massachusetts

For a petition to construct a "facility" (non-generating), a public hearing, which is also an adjudicatory proceeding, is held by the board within six months of the application. Additionally, a public hearing must be held in each locality in which a facility is to be located. The authority of the board to conduct public hearings for a "non-generating" facility or oil facility may be delegated in whole or in part to the employees of the department. Pursuant to the rules of the board, such employees shall report back to the board with recommended decisions for final action thereon.

For the construction of "generating" facilities, within 60 days of the filing of a petition to construct a generating facility, the board shall conduct a public hearing in each locality in which the generating facility would be located. In addition, the board shall, within 180 days of the filing thereof, conduct

[117] CGS Sec. 16-50l (f) amended by P.A. 24-144.

[118] *Id.* at Sec. 16-50m and Sec. 16-50j (i) amended by P.A. 24-144.

public evidentiary hearings on every petition to construct a generating facility. Such evidentiary hearings shall be adjudicatory proceedings.

The public hearings, held in the evening, provide those who attend with an opportunity to learn about the proposed project and its potential environmental impacts. It also allows staff to learn about the public's concerns. At the public hearing, the applicant presents an overview of the proposed facility. Public officials and the public then have an opportunity to ask questions and make comments about the proposal. The public hearing is recorded by a court reporter. Written comments are also welcome and given equal weight to in-person comments.[119]

New Hampshire

The public information sessions begin in New Hampshire before the application is filed. Notice of this public hearing is published in the newspaper and sent by first class mail to the governing body of each affected municipality.

Thereafter, once the application is complete, within 45 days, the applicant, after public notice, must hold at least one public information session in each county in which the proposed facility is located to present information about the facility and provide an opportunity for questions or comments. Notice must be given by newspaper and also by certified mail to each affected community. Notice must also be given to the presiding officer of the Site Evaluation Committee. The administrator or designee of the presiding officer of the committee acts as the presiding officer at the public information session. This session is for public information on the proposed facility with the applicant presenting the information to the public. The presiding offer also explains to the public the process the committee will use to review the application for the proposed facility.

Further, upon request of the municipality in which the proposed energy facility is to be located or on the committee's own motion, the committee may order the applicant to provide additional public information sessions.

In addition to the public information sessions, the Site Evaluation Committee, within 90 days after the acceptance of an application for a Certificate, must hold at least one public hearing in each county in which the proposed facility is to be located. The applicant provides notice of the hearing and prepares a transcript which is later published on the committee's website.

Generally, except for state agencies and programs that are required by state or federal law or regulation to comply with program specific public notice and public hearing requirements or for those agencies that do not have the authority to hold hearings, the public hearing can also be a joint hearing with representatives of any agencies that have permitting or other regulatory authority over the subject matter and is in lieu of and deemed to satisfy all initial requirements for public hearings under the statutes requiring permits relative to environmental impact applicable to the proposed facility.

[119] M.G.L.A. 164 Sec. 69J, M.G.L.A. 164 Sec. J1/4, and EFSB and DPU Siting Process | Mass.gov.

Members of the public who have an interest in the subject matter are provided with an opportunity to state their positions or to have someone read their statement into the record.

The Committee is also required to have an adjudicative proceeding regarding an application. Subsequent public hearings are considered to be such adjudicative proceedings and are held in the county or one of the counties in which the proposed facility is to be located or in Concord, N.H., as determined by the committee.

The committee also provides an opportunity at one or more public hearings for comments from the governing body of each affected municipality and residents of each affected municipality. [120]

Rhode Island

In Rhode Island, the statutes specifically state that public input is part of the decision-making process.[121] Upon receipt of the application, the board notifies the towns and cities affected by the proposed facility and will hold a preliminary hearing on the matter. This preliminary hearing is convened between 45 to 60 days after docketing. The purpose of this hearing is to determine the issues to be considered by the board in evaluating the application, and to designate those agencies of state government and of political subdivisions of the state which shall act at the direction of the board for the purpose of rendering advisory opinions on these issues, and to determine petitions for intervention.[122]

The Board then conducts public comment hearings- typically after the preliminary hearing but before the final hearing and final action. The board is required to hold at least one hearing in each affected location prior to the other board hearings and final decision. If the subject of the application is a facility for the generation of electricity, or new facilities for the transmission of electricity, the town or city where the proposed facility would be located may request funding from the applicant to perform studies of the local environmental effects of the proposed facility.[123]

Within forty-five days after the state agencies have issued their advisory opinions, the public is also invited to a final hearing prior to the final decision of the Board. The purpose of this hearing is not to rehear the evidence which was presented previously in hearings before those agencies which rendered advisory opinions, but rather, to provide the applicant, intervenors, the public, and all other parties in the proceeding, the opportunity to address in a single forum, and from a consolidated, statewide prospective, the issues reviewed, and the recommendations made in the proceedings before those state agencies. The board at this hearing may, at its discretion, allow the presentation of new evidence by any party as to the issues considered by the agencies. The board may limit the presentation of repetitive or cumulative evidence. The hearing shall proceed on not

[120] N.H. Rev. Stat. Sec. 162-H:10 and Statutes / Rules / Procedures | NH Site Evaluation Committee (nh.gov).
[121] R.I. Gen. Laws Ann. Sec. 42-98-9.1(e).
[122] R.I. Gen. Laws Ann. Sec. 42-98-9 (a).
[123] R.I. Gen. Laws Ann. Sec. 42-98-9.1(a) and (b).

less than thirty (30) days' notice to the parties and the public, shall be concluded not more than sixty (60) days following its initiation, and shall be conducted expeditiously. The final decision is issued within 60 days of concluding the final hearing.[124]

The siting board is authorized and empowered to summon and examine witnesses and to compel the production and examination of papers, books, accounts, documents, records, certificates, and other legal evidence that may be necessary for the determination of its jurisdiction and decision of any question before, or the discharge of any duty required by law of, the board.[125]

Vermont

With respect to a facility located in Vermont, in response to a request from one or more members of the public or a party or on its own initiative, the Public Utility Commission will hold a non-evidentiary public hearing on a petition for such finding and certificate which is either remotely accessible or held in at least one county in which any portion of the construction of the facility is proposed to be located, or both. From the comments made at a public hearing, the Commission determines areas of inquiry that are relevant to the findings to be made and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Commission shall direct the parties to provide evidence on the area. This subdivision does not require the Commission to respond to each individual comment.

The Public Utility Commission also holds evidentiary hearings at locations that it selects in any case in which contested issues remain or when any party to a case requests that an evidentiary hearing be held. In the event a case is fully resolved, and no party requests a hearing, the Commission may exercise its discretion and determine that an evidentiary hearing is not necessary to protect the interests of the parties or the public, or for the Commission to reach its decision on the matter.[126]

[124] R.I. Gen. Laws Ann. Sec. 42-98-11 (a) and R.I. Gen. Laws Ann. Sec. 42-98-11 (c).

[125] R.I. Gen. Laws Ann. Sec. 42-98-7 (b).

[126] 30 V.S.A. Sec. 248(a)(4)(A) – (B).

APPENDIX 14: COMPARISON OF OTHER STATE AGENCIES IN SITING – MA, NH, RI

State agencies can have a role, to varying degrees, in advising or working in conjunction with siting bodies. Each of the New England states seems to handle the relationship between state agencies and the state's siting body differently.

Unlike Connecticut, the siting boards in other states have a larger crossover with their PUC. In CT, the chairperson of PURA (or the chairperson's designee) represents one vote of the nine- member board. Additionally, PURA is one of the state agencies which provides comments to CSC. There is limited overall involvement of PURA as required by statute.

In contrast to Connecticut, in New Hampshire, three of the five members of SEC are the three commissioners from the PUC and the chairperson of the SEC is the chairperson of PUC. Therefore, the majority of the board and the chairperson come from the PUC. Also, there is a shared staff member hired by and under supervision of chair of the PUC who performs duties for both PUC and SEC with SEC having higher priority. In Rhode Island, one of the three members of EFSB is the chair of PUC. Also, the chair of PUC acts as the chair of EFSB. In Massachusetts, the DPU is overseen by a 3-person commission and 2 members of that commission are on the EFSB. The DPU also has a siting division, and the DPU siting division staff are the staff for the EFSB.

In CT, an attorney general is appointed to act as counsel for CSC. In contrast, in New Hampshire, the attorney general is appointed to act as counsel for the public.

Another difference between Connecticut and other states is that the Connecticut statutes list the agencies which will give advisory opinions to the CSC. In Massachusetts and Rhode Island, the board is allowed to choose which agencies to contact and obtain advisory opinions from (the role of other state agencies in siting is covered in Chapter 1 of this report).

Massachusetts

The Commonwealth Utilities Commission (also referred to as the Department of Public Utilities Commission) is a three-member body in charge of the Department of Public Utilities in Massachusetts. The Chairman of the Commonwealth Utilities Commission has the statutory authority to "refer matters related to the need for, construction of, or siting of facilities…as he deems appropriate to the energy facilities siting board…." Further, two members of the EFSB are two Commissioners from the Commonwealth Utilities Commission.[127]

The Massachusetts Department of Public Utilities also has a role in siting. The Department of Public Utilities (DPU) has a facility siting division which performs functions as the Commonwealth

[127] M.G.L.A. 25 Sec. 2, M.G.L.A. 25 Sec. 4, and M.G.L.A. 164 Sec. 69H.

Utilities Commission may determine in relation to the administration, implementation, and enforcement of the siting statutes.[128]

While the Energy Facilities Siting Board (EFSB) oversees the siting of many large energy facilities, the DPU also plays a complementary role that long pre-dates the creation of the EFSB. The DPU reviews proposals to: (1) construct and operate electric transmission lines; (2) obtain exemptions from municipal zoning ordinances for necessary energy facilities; (3) authorize the survey of land for proposed energy facilities; and (4) authorize the taking of land (or easements) for necessary energy facilities. The DPU Siting Division administers DPU siting functions and serves as staff to the EFSB. When proposed energy facilities involve both the DPU and EFSB, the DPU assigns its responsibilities to the EFSB in a consolidated proceeding. The Department of Public Utilities (DPU) administratively supports the work of the EFSB and its staff, but the nine-member EFSB makes its decisions independently. EFSB staff also conducts DPU siting-related cases that do not fall within the EFSB's jurisdiction.[129]

In carrying out its functions, the EFSB cooperates with, and may obtain information and recommendations from every agency of the state government and of local government which may be concerned with any matter under the purview of the EFSB. Each state or local government agency is directed to provide such information and recommendations as may be requested by the EFSB. [130]

The EFSB is authorized to make joint investigations, hold joint hearings within or without the commonwealth, and issue joint or concurrent orders in conjunction or concurrence with any official agency of any state or of the federal government. Whether in the holding of such investigations of hearings, or in the making of such orders, the board may function under agreements or compacts between states or under the concurrent power of states to regulate interstate commerce, or as an agency of the federal government or otherwise. The board, in the discharge of its duties under this section is further authorized to negotiate and enter into agreements or compacts with agencies of the federal government or other states, pursuant to any consent of congress, for cooperative efforts in certifying the construction, operation and maintenance of energy facilities in accord with the purposes of this section and for the enforcement of the respective laws of the commonwealth or of said states regarding same.[131]

New Hampshire

Each application in New Hampshire needs to contain sufficient information to satisfy the application requirements of each state agency having jurisdiction, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility, and must include each agency's completed application forms, which are contemporaneously filed with the state

[128] M.G.L.A. 25 Sec. 12N.

[129] DPU Siting Division | Mass.gov and Energy Facilities Siting Board | Mass.gov

[130] M.G.L.A. 164 Sec. 69H.

[131] M.G.L.A. 164 Sec. 69Q.

agency having jurisdiction. Upon receipt of a copy, each agency conducts a preliminary review to ascertain if the application contains sufficient information for its purposes. If the application does not contain sufficient information for the purposes of any of the state agencies having permitting or other regulatory authority, that agency, in writing, notifies the chairperson or designated presiding officer and the applicant of that fact and specifies what information the applicant must supply. Notwithstanding any other provision of law, for purposes of the time limitations, any application made under this section shall be deemed not accepted either by the chairperson or designated presiding officer or by any of the state agencies having permitting or other regulatory authority if the applicant is reasonably notified that it has not supplied sufficient information for any of the state agencies having permitting or other regulatory authority in accordance with this paragraph.

Additionally, when an application is filed, the attorney general is notified. The attorney general appoints an assistant attorney general to act as a counsel for the public. This counsel represents the public in seeking to protect the quality of the environment and in seeking to assure an adequate supply of energy.

When initiating a proceeding for a committee matter, the committee shall expeditiously notify state agencies having permitting or other regulatory authority or that are identified in administrative rules. State agencies having permitting or other regulatory authority may participate in SEC proceedings as follows: (a) Receive proposals or permit requests within the agency's permitting or other regulatory authority, expertise, or both; determine completeness of elements required for such agency's permitting or other programs; and report on such issues to the SEC; (b) Review proposals or permit requests and submit recommended draft permit terms and conditions to the SEC; (c) Identify issues of concern on the proposal or permit request or notify the SEC that the application raises no issues of concern; and (d) When issues of concern are identified by the agency or SEC, designate one or more witnesses to appear before the committee at a hearing to provide input and answer questions of parties and committee members.

Within 30 days of receipt of a notification of proceeding, a state agency not having permitting or other regulatory authority but wishing to participate in the proceeding shall advise the presiding officer of the SEC in writing of such desire and be allowed to do so provided that the presiding officer determines that a material interest in the proceeding is demonstrated and such participation conforms with the normal procedural rules of the committee.

The commissioner or director of each state agency that intends to participate in a committee proceeding shall advise the presiding officer of the name of the individual on the agency's staff designated to be the agency liaison for the proceeding. The presiding officer may request the attendance of an agency's designated liaison at a session of the committee if that person could materially assist the committee in its examination or consideration of a matter.

A state agency may intervene as a party in any committee proceeding in the same manner as other persons. An intervening agency shall have the right to rehearing and appeal of a certificate or other decision of the committee.[132]

Rhode Island

The RI-EFSB is the licensing and permitting authority for all licenses, permits, assents, or variances which, under any statute of the state or ordinance of any political subdivision of the state, would be required for siting, construction or alteration of a major energy facility in the state. Any agency, board, Council, or commission of the state or political subdivision of the state which would otherwise be required to issue a permit, license, assent, or variance in order for the siting, construction, or alteration of a major energy facility to proceed, sits and functions at the direction of the RI-EFSB. These agencies follow the procedures established by statute, ordinance, and/or regulation provided for determining the permit, license, assent, or variance, but instead of issuing the permit, license, assent, or variance, will instead forward its findings from the proceeding, together with the record supporting the findings and a recommendation for final action, to the RI-EFSB.[133]

The RI-EFSB can direct action by other state agencies. After receiving an application, the RI-EFSB will conduct a preliminary hearing where it determines issues to be considered by the Board in evaluating an application. The Board can then designate agencies of state government and of political subdivisions of the state to render advisory opinions on these issues, which they then must do. Each agency of the state or political subdivision of the state designated under § 42-98-9 proceeds to consider the issue or issues consigned to it for review. Each agency must then issue an advisory opinion not more than six (6) months following its designation or any lesser time that the board may require, or the right to exercise the function shall be forfeited to the board.

There are three types of advisory opinions: those enumerated in the statutes, jurisdictional licenses and permits and discretionary. The statutes require two advisory opinions. First, the public utilities commission must conduct an investigation concerning the need for the proposed facility (and typically cost) in which the division of planning of the department of administration, the governor's office of energy assistance and the division of public utilities and carriers participate. The statewide planning program within the department of administration also must conduct an investigation as to the socio-economic impact of the proposed facility and its construction and consistency with the state guide plan. The EFSB also designates all state and local agencies that would normally have issued required licenses, permits, etc. to render an advisory opinion on whether or not the necessary licenses, permits, etc. should be granted. Finally, the Board's Rules allow the EFSB to designate agencies to render discretionary advisory opinions that do not convey an opinion on a specific license, but rather an opinion on how a project conforms to an applicable law or policy.[134]

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[132] N.H. Rev. Stat. Sec. 162-H:7, N.H. Rev. Stat. Sec. 162-H:7-a, and N.H. Rev. Stat. Sec. 162-H:9.

[133] R.I. Gen. Laws Ann. Sec. 42-98-7 (a)(1) and R.I Gen. Laws Ann. Sec. 42-98-7 (a)(2).

[134] R.I. Gen. Laws Ann. Sec. 42-98-9(a) – 10(a) and General FAQ (ri.gov).

APPENDIX 15: COMPARISON OF CRITERIA FOR FINAL DECISION – CT, MA, NH, RI, VT

There are generally statutory guidelines of what the siting body must consider in evaluating a project. Connecticut has extensive requirements that must be considered by the CSC in evaluating a Certificate.

Connecticut

The CSC cannot grant a Certificate, either proposed or modified by the CSC, unless it determines:

(A) "A public need for the facility and the basis of the need;

(B) The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, (i) electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, (ii) ecological balance, (iii) public health and safety, (iv) scenic, historic and recreational values, (v) agriculture, (vi) forests and parks, (vii) air and water purity, and (viii) fish, aquaculture and wildlife;

(C) Why the adverse effects or conflicts referred to in subparagraph (B) of this subdivision are not sufficient reason to deny the application;

(D) (i) From October 1, 2024 to Sept. 30, 2025, inclusive, in the case of an electric transmission line, (I) what part, if any, of the facility shall be located overhead, (II) that the facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving the state and interconnected utility systems and will serve the interests of electric system economy and reliability, and (III) that the overhead portions, if any, of the facility are cost effective and the most appropriate alternative based on a life-cycle cost analysis of the facility and underground alternatives to such facility, are consistent with the purposes of this chapter, with such regulations or standards as the CSC may adopt pursuant to section 16-50t, including, but not limited to, the CSC's best management practices for electric and magnetic fields for electric transmission lines and with the Federal Power Commission "Guidelines for the Protection of Natural Historic Scenic and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities" or any successor guidelines and any other applicable federal guidelines and are to be contained within an area that provides a buffer zone that protects the public health and safety, as determined by the CSC. In establishing such buffer zone, the CSC shall consider, among other things, residential areas, private or public schools, licensed childcare centers, licensed youth camps or public playgrounds adjacent to the proposed route of the overhead portions and the level of the voltage of the overhead portions and any existing overhead transmission lines on the proposed route. At a minimum, the existing right-of-way shall serve as the buffer zone;

(ii) On and after October 1, 2025, in the case of an electric transmission line, (I) what part, if any, of the facility shall be located overhead, (II) that the facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving the state and interconnected

utility systems and will serve the interests of electric system economy and reliability, (III) the estimated initial and life-cycle costs for the facility or modification, as applicable, and for any feasible and practical project alternatives, (IV) the estimated regionalized and localized costs for the facility or modification, as applicable, and for any feasible and practical alternative, (V) for any estimated localized costs for the facility or modification, as applicable, that such estimated localized costs are reasonable compared to the benefits; and (VI) that the overhead portions, if any, of the facility are cost effective and the most appropriate alternative based on a life-cycle cost analysis of the facility and underground alternatives to such facility, are consistent with the purposes of this chapter, with such regulations or standards as the CSC may adopt pursuant to section 16–50t, including, but not limited to, the CSC's best management practices for electric and magnetic fields for electric transmission lines and with the Federal Power Commission "Guidelines for the Protection of Natural Historic Scenic and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities" or any successor guidelines and any other applicable federal guidelines and are to be contained within an area that provides a buffer zone that protects the public health and safety, as determined by the CSC. In establishing such buffer zone, the CSC shall consider, among other things, residential areas, private or public schools, licensed childcare centers, licensed youth camps or public playgrounds adjacent to the proposed route of the overhead portions and the level of the voltage of the overhead portions and any existing overhead transmission lines on the proposed route. At a minimum, the existing right-of-way shall serve as the buffer zone;

(E) In the case of an electric or fuel transmission line, that the location of the line will not pose an undue hazard to persons or property along the area traversed by the line;

(F) In the case of a facility described in subdivision (6) of subsection (a) of section 16-50i (telecommunication towers) that is (i) proposed to be installed on land under agricultural restriction, as provided in section 22-26cc, that the facility will not result in a material decrease of acreage and productivity of the arable land, (ii) proposed to be installed on land near a building containing a school, as defined in section 10-154a, or a commercial child care center, as described in subdivision (1) of subsection (a) of section 19a-77, that the facility will not be less than two hundred fifty feet from such school or commercial child care center unless the location is acceptable to the chief elected official of the municipality or the CSC finds that the facility will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood in which such school or commercial child care center is located, or (iii) proposed to be installed on land owned by a water company, as defined in section 25-32a, and which involves a new ground-mounted telecommunications tower, that such land owned by a water company is preferred over any alternative telecommunications tower sites provided the CSC shall, pursuant to clause (iii) of this subparagraph, consult with the Department of Public Health to determine potential impacts to public drinking water supplies in considering all the environmental impacts identified pursuant to subparagraph (B) of this subdivision. The CSC shall not render any decision pursuant to this subparagraph that is inconsistent with federal law or regulations; and

(G) That, for a facility described in subdivision (5) or (6) of subsection (a) of section 16-50i (antenna television towers and telecommunication towers), the CSC has considered the manufacturer's recommended safety standards for any equipment, machinery or technology for the facility.

(H) For a facility described in subdivision (3) of section 16–50i (electric generating or storage facility) that is a solar photovoltaic facility, that the CSC has evaluated potential noise levels of the proposed facility in conformance with scientifically accepted methods for noise assessment." [135]

Prior to granting an applicant's Certificate for a facility described in subdivision (5) or (6) of subsection (a) of section 16–50i (antenna television towers and telecommunication towers) the CSC must also examine: "(A) The feasibility of requiring an applicant to share an existing facility, as defined in subsection (b) of section 16–50aa, within a technically derived search area of the site of the proposed facility, provided such shared use is technically, legally, environmentally and economically feasible and meets public safety concerns, (B) whether such facility, if constructed, may be shared with any public or private entity that provides telecommunications or community antenna television service to the public, provided such shared use is technically, legally, environmentally and economically feasible at fair market rates, meets public safety concerns, and the parties' interests have been considered, (C) whether the proposed facility would be located in an area of the state which the CSC, in consultation with the Department of Energy and Environmental Protection and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance, and (D) the latest facility design options intended to minimize aesthetic and environmental impacts. The CSC may deny an application for a Certificate if it determines that (i) shared use under the provisions of subparagraph (A) of this subdivision is feasible, (ii) the applicant would not cooperate relative to the future shared use of the proposed facility, (iii) the proposed facility would substantially affect the scenic quality of its location or surrounding neighborhood and no public safety concerns require that the proposed facility be constructed in such a location, or (iv) no public safety concerns require that a proposed facility owned or operated by the state be constructed in that location. In evaluating the public need for a cellular facility described in subdivision (6) of subsection (a) of section 16–50i, there shall be a presumption of public need for personal wireless services and the CSC shall be limited to consideration of a specific need for any proposed facility to be used to provide such services to the public." [136]

There are additional requirements for electric generating or storage facilities. The CSC cannot grant a Certificate for a facility described in subdivision (3) of subsection (a) of section 16–50i (electric generating or storage facility), either as proposed or as modified by the CSC, "unless it finds and determines a public benefit for the facility and considers neighborhood concerns with respect to the factors set forth in subdivision (3) of subsection (a) of this section, including public safety."[137] Further, the CSC cannot grant a Certificate for a facility described in subdivision (3) of subsection (a) of section 16–50i (electric generating or storage facility) that is a solar photovoltaic

[135] CGS Sec. 16-50p amended by P.A. 24-144.
[136] *Id*. at Sec. 16-50p(b) amended by P.A. 24-144.
[137] *Id*. at Sec. 16-50p amended by P.A. 24-144.

facility if it finds that "(A) such facility will not comply with any noise requirements established pursuant to chapter 442,1 or (B) the distance between any inverters or transformers of such facility and the property line is less than two hundred feet."[138]

There are also special requirements for transmission lines. The CSC shall not grant a Certificate for a facility described in subdivision (1) of subsection (a) of section 16–50i (transmission line), "that is substantially underground or underwater except where such facility interconnects with existing overhead facilities, either as proposed or as modified by the CSC, unless it finds and determines a public benefit for a facility substantially underground or a public need for a facility substantially underwater."[139] "A public benefit exists when a facility is necessary for the reliability of the electric power supply of the state or for the development of a competitive market for electricity and a public need exists when a facility is necessary for the reliability of the electric power supply of the state."[140]

"Any application for an electric transmission line with a capacity of three hundred forty-five kilovolts or more ... and proposes the underground burial of such line in all residential areas and overhead installation of such line in industrial and open space areas shall have a rebuttable presumption of meeting a public benefit for such facility if the facility is substantially underground and meeting a public need for such facility if the facility is substantially above ground. Such presumption may be overcome by evidence submitted by a party or intervenor to the satisfaction of the ... CSC."[141]

"For an application on a facility described in subdivision (1) of subsection (a) of section 16-50i, the CSC shall administratively notice completed and ongoing scientific and medical research on electromagnetic fields."[142]

Finally, "on and after October 1, 2025, the CSC cannot grant a Certificate for a facility described in subdivision (1) of subsection (a) of section 16–50i (transmission line), either as proposed or as modified by the CSC, unless the CSC finds and determines a public need for the facility and considers neighborhood concerns with respect to the factors set forth in subdivision (3) of subsection (a) of this section, including public safety and the impact that the proposed facility is anticipated to have on the tax base of any municipality where any part of such facility is proposed to be located." [143]

Additionally, the CSC "shall not grant a Certificate, either as proposed or as modified by the CSC, unless it (A) provides summaries and written responses to any comments that the Departments of Administrative Services, Agriculture, Economic and Community Development, Energy and

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[138] *Id.*

[139] *Id.* at Sec. 16-50p(c) amended by P.A. 24-144.

[140] *Id.* at Sec. 16-50p(c) (3) amended by P.A. 24-144.

[141] *Id.* at Sec. 16-50p(c) (4) amended by P.A. 24-144.

[142] *Id.* at Sec. 16-50o(b) amended by P.A. 24-144.

[143] *Id.* at Sec. 16-50p amended by P.A. 24-144.

Environmental Protection, Emergency Services and Public Protection, Public Health and Transportation, the Labor Department, the Council on Environmental Quality, the Public Utilities Regulatory Authority, the Office of Policy and Management or the Office of Consumer Counsel submits pursuant to subsection (i) of section 16–50j, as amended by this act, and (B) provides written responses to the positions of each intervenor that participated in the certification proceeding concerning such Certificate. The CSC shall specifically address any environmental justice concerns raised in the comments of said departments, Council on Environmental Quality, authority and offices, or in the positions of any such intervenor, in such written responses." [144]

"From October 1, 2024, to September 30, 2025, inclusive, CSC may give appropriate consideration in all proceedings to (1) the amounts expended by a utility for research on generation and transmission of the form of energy furnished by it and the environmental effect thereof, (2) the amounts expended by such utility for promotion, including advertising, of the use of the form of energy furnished by it, and (3) the relationship between such expenditures." [145]

"On and after October 1, 2025, the CSC shall give appropriate consideration in all proceedings to (1) the amounts expended by a utility for research on generation and transmission of the form of energy furnished by it and the environmental effect of such form of energy, (2) the amounts expended by such utility for promotion, including advertising, of the use of the form of energy furnished by it, and (3) the relationship between such expenditures." [146]

Massachusetts

The Board can approve the application for a non-generating facility, it can be rejected or conditionally approved. Approval requires that:

"all information relating to current activities, environmental impacts, facilities agreements and energy policies as adopted by the commonwealth is substantially accurate and complete; projections of the demand for electric power, or gas requirements and of the capacities for existing and proposed facilities are based on substantially accurate historical information and reasonable statistical projection methods and include an adequate consideration of conservation and load management; provided, however, that the department or board shall not require in any gas forecast or hearing conducted thereon the presentation of information relative to the demand for gas; projections relating to service area, facility use and pooling or sharing arrangements are consistent with such forecasts of other companies subject to this chapter as may have already been approved and reasonable projections of activities of other companies in the New England area; plans for expansion and construction of the applicant's new facilities are consistent with current health, environmental protection, and resource use and development policies as adopted by the commonwealth; and are consistent with the policies stated in section sixty-nine H to provide a

[144] *Id*.

[145] *Id*. at Sec. 16-50s amended by P.A. 24-144.

[146] *Id*.

necessary energy supply for the commonwealth with a minimum impact on the environment at lowest possible cost; and in the case of a notice of intent to construct an oil facility, that all information regarding sources of supply for such facility and financial information regarding the applicant and its proposed facility are substantially accurate and complete; that it is satisfied as to the adequacy of the applicant's capital investment plans to complete its facility; the long term economic viability of the facility; the overall financial soundness of the applicant; in the case of an oil facility, the qualification and capability of the applicant in the transshipment, transportation, storage, refining and marketing of oil or refined oil products; that plans including buffer zones or alternatives thereto for the applicant's new facility are consistent with current health, environmental protection and resource use and development policies as adopted by the Commonwealth." [147]

The Board can also approve the application for a generating facility, it can be rejected or conditionally approved. Approval requires that:

"(i) the description of the proposed generating facility and its environmental impacts are substantially accurate and complete; (ii) the description of the site selection process used is accurate; and (iii) the plans for the construction of the proposed generating facility are consistent with current health and environmental protection policies of the commonwealth and with such energy policies as are adopted by the commonwealth for the specific purpose of guiding the decisions of the board; (iv) such plans minimize the environmental impacts consistent with the minimization of costs associated with the mitigation, control, and reduction of the environmental impacts of the proposed generating facility; and (v) if the petitioner was required to provide information on other fossil fuel generating technologies, the construction of the proposed generating facility on balance contributes to a reliable, low-cost, diverse, regional energy supply with minimal environmental impacts." [148]

For "generating facilities" the EFSB is not required to make findings regarding the need for, the cost of, or alternative sites for a generating facility; "provided, however, that the board may, at its discretion, evaluate a noticed alternative site for a generating facility if the applicant requests such an evaluation, or if such an evaluation is an efficient method of administering an alternative site review required by another state or local agency." [149]
"To streamline its review of petitions to construct "generating facilities" which have state of the art environmental performance characteristics, the board will also periodically create rules to establish a technology performance standard for generating facilities emissions, including, but not limited to, emissions of sulfur dioxide, nitrogen oxides, particulate matter, fine particulates, carbon monoxide, volatile organic compounds, and heavy metals. As to each such pollutant, the performance standard must reflect the best available control technology or the lowest achievable emissions rate, whichever would be applicable in the commonwealth for such pollutant that year. The performance standard also reflects the best available and most efficient technology to control

[147] M.G.L.A. 164 Sec. 69J (non-generating)
[148] M.G.L.A. 164 Sec. 69J1/4 (generating).
[149] *Id*.

and reduce water withdrawals. Such standard needs to reflect emission rates that are achievable by state-of-the-art fossil fuel generating and control technologies, as demonstrated by air permits for construction that have been issued by the department of environmental protection. The technology performance standard is used solely to determine whether a petition to construct a generating facility must include information regarding other fossil fuel generation technologies. The promulgation or application of this standard shall not in any way supersede or impair the authority of the department of environmental protection with respect to these or other facilities."[150]

New Hampshire

To issue a certificate, in New Hampshire, the site evaluation committee needs to find that: "(a) the applicant has adequate financial, technical, and managerial capability to assure construction and operation of the facility in continuing compliance with the terms and conditions of the certificate; (b) the site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies; (c) the site and facility will not have an unreasonable adverse effect on aesthetics, historic sites, air and water quality, the natural environment, fish and wildlife resources, public health and safety, and existing land and offshore uses; and, (e) issuance of a certificate will serve the public interest."[151]

The committee has to incorporate into the certificate any terms and conditions in their entirety and "without addition, deletion, or change, as may be specified to the committee by any of the state agencies having permitting or other regulatory authority, under state or federal law, to regulate any aspect of the construction or operation of the proposed facility; provided, however, the committee shall not issue any certificate under this chapter if any of the state agencies denies authorization for the proposed activity over which it has permitting or other regulatory authority. The denial of any such authorization shall be based on the record and explained in reasonable detail by the denying agency."[152]

"The committee may consult with interested regional agencies and agencies of border states in the consideration of certificates."[153]

"Any certificate issued by the site evaluation committee must be based on the record. The decision to issue a certificate in its final form or to deny an application once it has been accepted is made by a majority of the full membership. A certificate is conclusive on all questions of siting, land use, air and water quality. The committee issues an order to either grant or deny the certificate. The order must summarize issues of concern expressed during public information sessions and hearings to ensure that the public's voice has been heard and recorded."[154]

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[150] *Id.*

[151] N.H. Rev. Stat. Sec. 162-H:16.

[152] *Id.*

[153] *Id.*

[154] *Id.*

Rhode Island

The RI – EFSB must consider, as issues in every proceeding, "the ability of the proposed facility to meet the requirements of the laws, rules, regulations, and ordinances under which, absent this chapter, the applicant would be required to obtain a permit, license, variance, or assent." [155]

The board "shall issue a decision granting a license only upon finding that the applicant has shown that: (1) Construction of the proposed facility is necessary to meet the needs of the state and/or region for energy of the type to be produced by the proposed facility; (2) The proposed facility is cost-justified, and can be expected to produce energy at the lowest reasonable cost to the consumer consistent with the objective of ensuring that the construction and operation of the proposed facility will be accomplished in compliance with all of the requirements of the laws, rules, regulations, and ordinances, under which, absent this chapter, a permit, license, variance, or assent would be required, or that consideration of the public health, safety, welfare, security and need for the proposed facility justifies a waiver of some part of the requirements when compliance cannot be assured; and, (3) The proposed facility will not cause unacceptable harm to the environment and will enhance the socio-economic fabric of the state."[156]

"Before approving the construction, operation and/or alteration of major energy facilities, the board determines whether cost effective efficiency and conservation opportunities provide an appropriate alternative to the proposed facility."[157]

Vermont

Before the Public Utility Commission issues a certificate of public good it needs to find, generally, and subject to additional statutory provisions, that the purchase, investment or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality.

(2) Is required to meet the need for present and future demand for service that could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy-efficiency and load management measures....

(3) Will not adversely affect system stability and reliability.

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[155] R.I. Gen. Stat. Sec. 42-98-9 (b).

[156] R.I. Gen. Laws Ann. Sec. 42-98-11 (b).

[157] R.I. Gen. Laws Ann. Sec. 42-98-2 (7).

(4) Will result in an economic benefit to the State and its residents.

(5) With respect to an in-state facility, will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety.

(6) With respect to purchases, investments, or construction by a company, is consistent with the principles for resource selection expressed in that company's approved least-cost integrated plan.

(7) Is in compliance with the electric energy plan approved by the Department of Public Service or that there exists good cause to permit the proposed action.

(8) Does not involve a facility affecting or located on any segment of the waters of the State that has been designated as outstanding resource waters by the Secretary of Natural Resources, except that with respect to a natural gas or electric transmission facility, the facility does not have an undue adverse effect on those outstanding resource waters.

(9) With respect to a waste to energy facility that it is included in a solid waste Management Plan.

(10) Can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers.

(11) With respect to an in-state generation facility that produces electric energy using woody biomass, will comply with the applicable air pollution control requirements, achieve the highest design system efficiency that is commercially available, feasible, and cost-effective for the type and design of the proposed facility; and comply with harvesting procedures and procurement standards that ensure long-term forest health and sustainability.[158]

Before a certificate of public good is issued for the construction of a nuclear energy generating plant within the State, the Public Utility Commission must obtain the approval of the General Assembly and the Assembly's determination that the construction of the proposed facility will promote the general welfare.[159]

[158] 30 V.S.A. Sec. 248 (b).

[159] 30 V.S.A. Sec. 248 (e)(1).

APPENDIX 16: COMPARISON OF ENVIRONMENTAL JUSTICE CONSIDERATIONS – CT, MA

Connecticut

"The CSC shall not grant a Certificate, either as proposed or as modified by the CSC, unless it (A) provides summaries and written responses to any comments that the Departments of Administrative Services, Agriculture, Economic and Community Development, Energy and Environmental Protection, Emergency Services and Public Protection, Public Health and Transportation, the Labor Department, the Council on Environmental Quality, the Public Utilities Regulatory Authority, the Office of Policy and Management or the Office of Consumer Counsel submits pursuant to subsection (i) of section 16–50j, as amended by this act, and (B) provides written responses to the positions of each intervenor that participated in the certification proceeding concerning such certificate. **The CSC shall specifically address any environmental justice concerns raised in the comments of said departments**, Council on Environmental Quality, authority and offices, or in the positions of any such intervenor, in such written responses." [160]

Additionally, applicants who seek siting approval from the Connecticut Siting Council involving a facility that is proposed to be located in an environmental justice community or the proposed expansion of an affecting facility located in such a community need to file an assessment of environmental or public health stressors and a meaningful participation plan.[161]

It is interesting to note that the Environmental Standards Act (the Siting Council statutes) only contain one reference to "environmental justice." Although the Siting Council is required to respond to comments about environmental justice concerns raised by the state agencies, that appears to be the only reference. However, the siting statutes don't refer to the Environmental Justice statute. [162]

Massachusetts

In Massachusetts, the Executive Office of Energy and Environmental Affairs issued an Environmental Justice policy in 2017. In Green Roots, Inc. v. Energy Facilities Siting Board,[163] the court wrote that the policy expressly applies to proceedings of the Board. "As to the specific requirements, agencies must provide "enhanced public participation" and "[e]nhanced analysis of impacts and mitigation" for a project (1) "that exceeds an Environmental Notification Form (ENF) threshold for air, solid and hazardous waste (other than remediation projects), or wastewater and sewage sludge treatment and disposal"; and (2) where "[t]he project site is located within one mile of an [Environmental Justice (EJ)] Population (or in the case of projects exceeding an ENF threshold

[160] CGS Sec. 16-50p amended by P.A. 24-144.

[161] *Id.* at Sec. 22a-20a.

[162] *Id.*

[163] Massachusetts Supreme Judicial Court: 490 Mass. 747 (2022)

for air, within five miles of an EJ Population)."[164] An EJ Population is a neighborhood that meets one or more of the following criteria: (i) the annual median household income of twenty-five percent of households is not more than sixty-five percent of the Statewide annual median; (ii) twenty-five percent or more of residents are racial or ethnic minorities; or (iii) twenty-five percent or more of households are English isolated (that is, they lack a member over fourteen years old with English language proficiency)."[165]

[164] Green Roots, Inc. v. Energy Facilities Siting Board, 490 Mass. 747 (2022)

[165] See EFSB Environmental Justice Information | Mass.gov

APPENDIX 17: COMPARISON OF COMPENSATION FOR PUBLIC COUNCIL MEMBERS – CT, MA, NH

Most of the New England states include at least one public member on their siting boards, although the specific number varies by state. The exception is Rhode Island which only draws its members from other state agencies. The public members in each state are appointed by the Governor, serve on a part time basis, and are compensated accordingly.

Connecticut

Connecticut, for energy matters, includes the most public members, who are all appointed by the Governor. Two members need experience in ecology and none of the members can have a substantial financial interest in, be employed by or be professionally affiliated (for at least three years prior) with a utility, facility, hazardous waste facility or ash residue disposal area. The public members, including the chairperson, the members appointed by the Speaker of the House and President Pro Tempore of the Senate and the four ad hoc members (used in hazardous waste matters) are compensated for their attendance at public hearings, executive sessions or other CSC business at the rate of $200/day max.[166]

Massachusetts

Massachusetts has three public members who are appointed by the Governor for a term coterminous with that of the governor. One public member needs to be experienced in environmental issues, one must be experienced in labor issues, and one needs experience in energy issues. The board cannot include as a public member any person who receives, or who has received during the past two years, a significant portion of his or her income directly or indirectly from the developer of an energy facility or an electric, gas or oil company. The public members serve on a part-time basis, receive $100 for each day of board service and are reimbursed by the Commonwealth for all reasonable expenses actually and necessarily incurred in the performance of official board duties.[167]

New Hampshire

New Hampshire has one public member. The Governor, with the consent of the council, appoints a public member and an alternative public member to serve on the committee. The public member and alternate must be residents of the State of New Hampshire with expertise or experience in one or more of the following areas: business management; environmental protection; natural resource protection; energy facility design, construction, operation, or management; community and regional planning or economic development; municipal or county government; or the governing of unincorporated places. No public member nor any member of his or her family shall receive income from energy facilities within the jurisdiction of the committee. The public member is compensated for all time spent on committee business, including compensation and reimbursement for energy facility proceeding time and expenses. Compensation is provided on a pro rata basis, based upon the daily salary rate of an unclassified position.[168]

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[166] CGS Sec. 16-50j amended by P.A. 24-144.

[167] M.G.L.A. 164 Sec. 69H.

[168] N.H. Rev. Stat. Sec. 162-H:3, N.H. Rev. Stat. Sec. 162-H:4-b, and N.H. Rev. Stat. Sec.162-H:22.

APPENDIX 18: COMPARISON OF LOCAL COMMUNITY INVOLVEMENT – MA, NH, RI

Connecticut's pre-application process has more robust requirements for municipal involvement than is seen in other state structures. Connecticut appears to be the only state where an applicant is statutorily required to use good faith efforts to meet with multiple levels of government representatives prior to the application being filed.

In all of the New England states with statutory siting bodies, the local government receives notice when an application is filed. Connecticut appears to be the only state that, by statute, requires an applicant to file a separate municipal participation fee.

Massachusetts

In Massachusetts, each Petition for Approval of Construction must be served on the mayor of each city and the board of selectmen of each town in which any part of the proposed facility is to be located. Public notice is also posted in the city or town halls of communities in which the proposed project would be located.[169]

New Hampshire

In New Hampshire, a local government receives notice from an applicant of the pre-application public information session. The application must be given to the governing body of each municipality and must include a list of the affected municipalities. In evaluating a proposed energy facility, the SEC must find that, "the site and facility will not unduly interfere with the orderly development of the region with due consideration having been given to the views of municipal and regional planning commissions and municipal governing bodies."[170]

Rhode Island

The RI-EFSB, upon receiving a utility company application, immediately notifies, in writing, the Councils of the towns and cities affected by the construction. The city or town can intervene in the proceedings by filing a notice.[171]

[169] M.G.L.A. 164 Sec. 69L and https://www.mass.gov/info-details/efsb-and-dpu-siting-process.

[170] N.H. Rev. Stat. Sec. 162-H:7, N.H. Rev. Stat. Sec. 162-H:10, and N.H. Rev. Stat. Sec. 162-H:16.

[171] R.I. Gen. Laws Sec. 42-98-9.1 and EFSB Rules of Practice and Procedure 1.10.

APPENDIX 19: COMPARISON OF TIMELINES/PROCESS FOR DECISIONS – CT, MA, NH, RI

In general, all of the state statutory siting bodies issue their final decisions within a year after acceptance of an application. Connecticut has the most robust pre-application procedure, however, which will add on at least 2-3 months to the overall process. During this timeframe, before the application is filed, an applicant must use good faith efforts to meet with multiple levels of municipal representatives, provide information to the municipality and obtain information and recommendations from the municipality. In New Hampshire, the pre-application process consists of a public hearing, with notice requirements, which hearing must be held at least 30 days prior to the application. A similar pre-application procedure does not exist for Rhode Island or Massachusetts. Therefore, while the overall timeframe from application to decision is similar, Connecticut's overall process will take longer because of the pre-application requirements.

Both Connecticut and Rhode Island boards receive input from state agencies through written opinions. In Connecticut, the opinions must be received before the Board can hold its hearings and the hearings must be held within 30-150 days after the application is filed. In Rhode Island, there is a set time limit of six months within which the state agencies can submit their opinions and then a hearing is held within forty-five days of receipt.

Connecticut

For a Certificate of environmental compatibility and public need, at least 60 days prior to filing an application (or 90 days for transmission lines) the applicant consults with the municipality. Within 30 days of this meeting, the municipality presents the applicant with proposed alternative sites. Within 60 days from the initial consultation, the municipality issues its recommendations to the applicant and can hold a public informational meeting. The application is thereafter filed. Within 15 days of filing the application, the applicant provides the municipal materials to the CSC. 30-150 days after application is filed the public hearing must be held. The CSC's decision is rendered: (A) Not later than twelve months after the filing of an application for a facility described in subdivision (1) or (2) of subsection (a) of section 16–50i or subdivision (4) of said subsection (a) if the application was incorporated in an application concerning a facility described in subdivision (1) of said subsection (a); and (B) not later than one hundred eighty days after the filing of an application for a facility described in subdivisions (3) to (6), inclusive, of subsection (a) of section 16–50i, provided the CSC may extend such period by not more than one hundred eighty days with the consent of the applicant.[172]

For a declaratory ruling, the CSC has 180 days from the date of receipt to render a decision on a petition; however, within 60 days of receipt of a petition, the CSC, in writing, must:

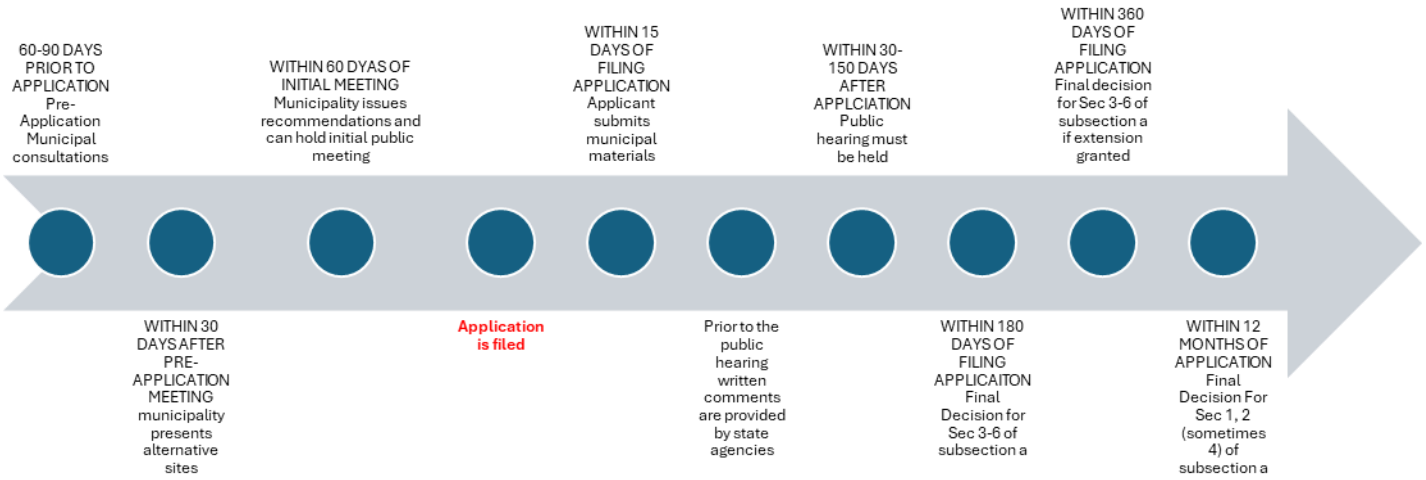
1. Issue a declaratory ruling;
2. Order the matter set for public hearing;
3. Agree to issue a declaratory ruling by a specified date;

[172] CGS Sec. 16-50l and CGS Sec. 16-50p amended by P.A. 24-144.

4. Initiate regulation-making proceedings; or
5. Decide not to issue a declaratory ruling.

The CSC may extend the 180-day decision deadline on a petition within a longer period as may be agreed by the parties.[173]

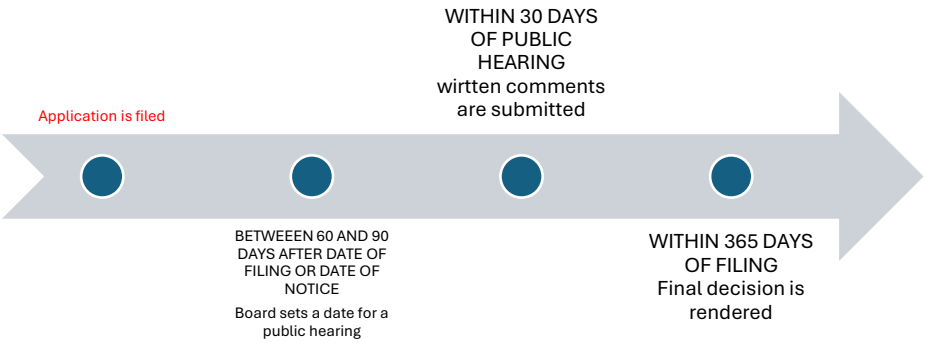
Connecticut timeline:



Massachusetts

Upon receipt of a petition for a certificate, the board fixes a time and place for a public hearing not less than sixty days nor more than ninety days from the date of filing or date specified in the notice and publication, whichever is later. Public notice is given. Interested persons then have thirty days following the date of the public notice to submit written comments. The MA-EFSB has to approve the construction of a generating facility within one year of the date of filing.[174]

Massachusetts timeline:



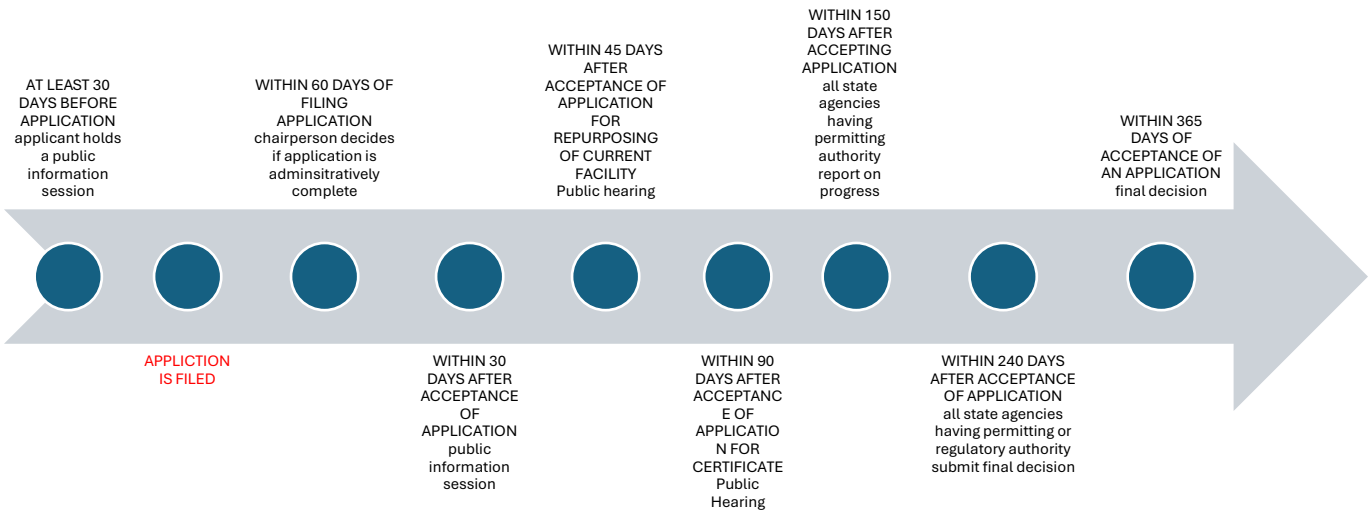
[173] CSC Frequently Asked Questions (ct.gov).

[174] M.G.L.A. 164 Sec. 69M and M.G.L.A. 164 Sec. 69j ¼.

New Hampshire

At least 30 days before filing an application for a certificate, the applicant has to hold a public information session. The application is then filed. The chairperson has to decide whether or not to accept the application as administratively complete within 60 days of filing. Within 30 days after acceptance of the application, the applicant holds a public information session. Within 90 days after acceptance of an application for a certificate (or within 45 days after acceptance of an application pursuant to RSA 162-H:7-a), the site evaluation committee holds at least one public hearing in each county in which the proposed facility is to be located provided that if the proposed facility is located within a single city or town the public hearing will be held within that city or town.

All state agencies having permitting or other regulatory authority shall report their progress to the committee within 150 days of the acceptance of the application, outlining draft permit conditions and specifying additional data requirements necessary to make a final decision on the parts of the application that relate to its permitting or other regulatory authority. All state agencies having permitting or other regulatory authority shall make and submit to the committee a final decision on the parts of the application that relate to its permitting and other regulatory authority, no later than 240 days after the application has been accepted. The committee must issue or deny a certificate for an energy facility within 365 days of the acceptance of an application. [175]
New Hampshire timeline:



Rhode Island

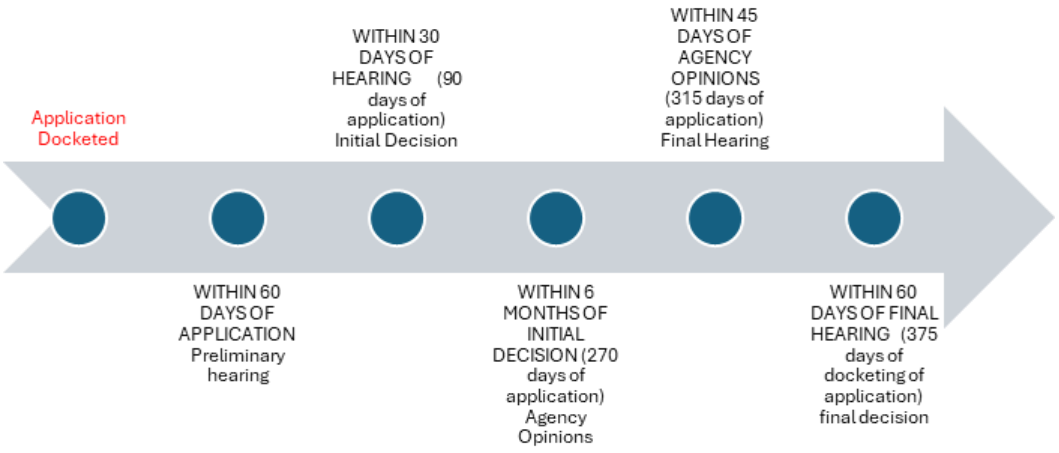
Within 60 days of the board's docketing of an application the board shall, on not less than 45 days notice to all agencies, subdivisions of the state and the public, convene a preliminary hearing on

[175] N.H. Rev. Stat. Sec. 162-H:7 and N.H. Rev. Stat. Sec. 162-H:10.

the application to determine the issues to be considered by the board in evaluating the application, and to designate those agencies of the state government and of political subdivision of the state which shall act at the direction of the board for the purpose of rendering advisory opinion and to determine petitions for intervention.

A decision of the Board is issued within 30 days following the conclusion of the preliminary hearing and in any event within 45 days of the commencement of the hearing. Agencies must give their opinions within 6 months. Within 45 days after the advisory opinions are submitted, the board convenes the final hearing on the application. Within 60 days of the conclusion of the final hearing, the board issues its final decision on the application. Therefore, in RI, the final decision is issued within 375 days of the application being docketed.[176]

Rhode Island timeline:



[176] R.I. Gen. Laws Sec. 42-98-(9 – 11).

APPENDIX 20: CSC STAFF BIOS AND CSC COUNCIL MEMBERS

Following are staff bios for the Connecticut Siting Council's administrative and technical staff. The most up-to-date listing of CSC members for Energy & Telecommunications matters is on the CSC website.

ADMINISTRATIVE TEAM

Melanie Bachman is the Executive Director and Staff Attorney with over 16 years of experience at the CSC. Her principal responsibilities include management of office operations and professional staff, formation of agency policies, preparation of agency budget and reports, advising members and staff on legal matters, application of statutes, regulations, case law and legal principles to jurisdictional matters, drafting regulations, conclusions of law and legislative testimony, representation of the agency in administrative proceedings, on boards and at professional conferences, ensuring final decisions comply with applicable state and federal laws, coordination of agency meetings and proceedings, organization of jurisdictional matters according to statutory deadlines, certification of evidentiary records, consultation with the Attorney General's Office on court appeals, arrangement of facility site inspections and associated facility status meetings, and collaboration with local, state, regional and federal entities and other stakeholders. Attorney Bachman holds a B.S. in Management Systems from Fordham University and a J.D. from UCONN Law School, as well as prior experience in legal education, business management and administrative, land use and real estate law.

Lisa Fontaine is the Fiscal Administrative Officer with over 24 years of experience at the CSC. Her principal responsibilities include budgeting, financial reporting, accounts receivable, assessment and direct-charge invoicing, policy formulation, liaison with central state agencies, ethics compliance officer, human resource administration, records retention, report drafting, contract negotiation and purchasing, as well as supervision of the administrative team. Ms. Fontaine holds an associate's degree in management from Endicott College, as well as prior experience in child development and construction business management.

Lisa Mathews is an Office Assistant with over 11 years of experience at the CSC. Her principal responsibilities include interfacing with the public and stakeholders, drafting correspondence, processing documents, receiving application and petition materials, responding to general inquiries, and maintaining records. Ms. Mathews holds a B.S. in Sociology from Central Connecticut State University and has over 20 years of experience in office administration focused on customer service and document management.

Dakota LaFountain is an Office Assistant with over 1 year of experience at the CSC. Her principal responsibilities include processing new applications and petitions, drafting correspondence, preparing meeting materials, providing general information in response to inquiries from the public and stakeholders, and maintaining the agency website. Ms. LaFountain attended Daytona State College and has over 10 years of experience in office administration focused on data management and organizational efficiency.

TECHNICAL TEAM

Christina Walsh is the Supervising Siting Analyst with over 24 years of experience at the CSC. Her principal responsibilities include agency data officer, supervision of the technical team, evaluation of applications, petitions and other jurisdictional requests for completeness, analysis of environmental impacts and associated mitigation measures, creation of telecommunications coverage assessments, development of policies and standards, examination of costs and siting impacts associated with proposed and existing jurisdictional facilities, prioritization of technical work, preparation of reports, assessments, enforcement actions and correspondence, monitor the status of facilities and compliance with reporting requirements, and management of agency databases. Ms. Walsh holds a B.S. in Environmental Science from Marist College and a M.S. in Environmental Science from the University of New Haven with specialization in Geographic Information Systems.

Robert Mercier is a Siting Analyst 2 with over 23 years of experience at the CSC. His principal responsibilities include evaluation of all types of jurisdictional facilities, development of the evidentiary record, analysis of environmental impacts associated with the construction, maintenance and operation of jurisdictional facilities, interpretation of environmental and technical material and data, assessment of environmental mitigation measures, identification of siting issues and associated technological advancements, and generation of proposed final decisions, as well as ongoing research related to environmental, operational, health and safety issues pertaining to energy and telecommunications facilities. Mr. Mercier holds a B.S. in Biology and Environmental Science from Central Connecticut State University and prior experience in environmental consulting, design and management and nature center education.

Michael Perrone is a Siting Analyst 2 with over 21 years of experience at the CSC. His principal responsibilities include evaluation of all types of jurisdictional facilities, development of the evidentiary record, analysis of costs and cost allocation associated with construction, maintenance and operation of jurisdictional facilities, and generation of proposed final decisions, as well as compilation of the annual Forecast of Connecticut Electric Loads and Resources and Life Cycle Cost Analysis of Overhead and Underground Electric Transmission Lines Reports. Mr. Perrone holds a B.S. in Mechanical Engineering with a minor in Mathematics from the University of New Haven, additional training in Electrical Engineering from Michigan Technological University and ongoing experience with troubleshooting for family HVAC business.

Ifeanyi Nwankwo is a Siting Analyst 1 with 6 years of experience at the CSC. His principal responsibilities include evaluation of jurisdictional facilities and modifications to existing facilities for compliance with statutory requirements and relevant structural engineering codes, analysis of costs associated with proposed jurisdictional facilities, development of the evidentiary record and generation of proposed final decisions. Mr. Nwankwo holds a Civil and Water Resources Engineering Technology degree from the National Water Resources Institute in Nigeria and a master's certification in Water Resources and Environmental Management from the University of

Hertfordshire in the United Kingdom, as well as prior experience as a regional telecommunications facility and field operations manager in Nigeria.

Adam Morrone is a Siting Analyst 1 with over 2 years of experience at the CSC. His principal responsibilities include evaluation of tower sharing and tower modification requests for completeness, examination of jurisdictional facilities and modifications to existing facilities for compliance with statutory requirements and relevant structural engineering codes, development of proposed approvals for tower sharing and modifications, maintenance of the telecommunications database, revision of the Statewide Telecommunications Plan, and analysis of jurisdictional facility petitions. Mr. Morrone holds a B.S in Molecular and Cell Biology from UCONN, as well as prior experience in agriculture and land use.

APPENDIX 21: CONNECTICUT'S CLIMATE GOALS AND SOLAR SITING

Connecticut has long been recognized nationally for creating aggressive goals and building momentum to fight global warming. The State created its first Governor's Council on Climate Change (GC3) in 2015, the legislature passed the Climate Change Planning and Resiliency Act of 2018, and in 2022, Governor Lamont signed into law climate change legislation to eliminate GHG emissions from electricity supplied to CT customers, among other actions.

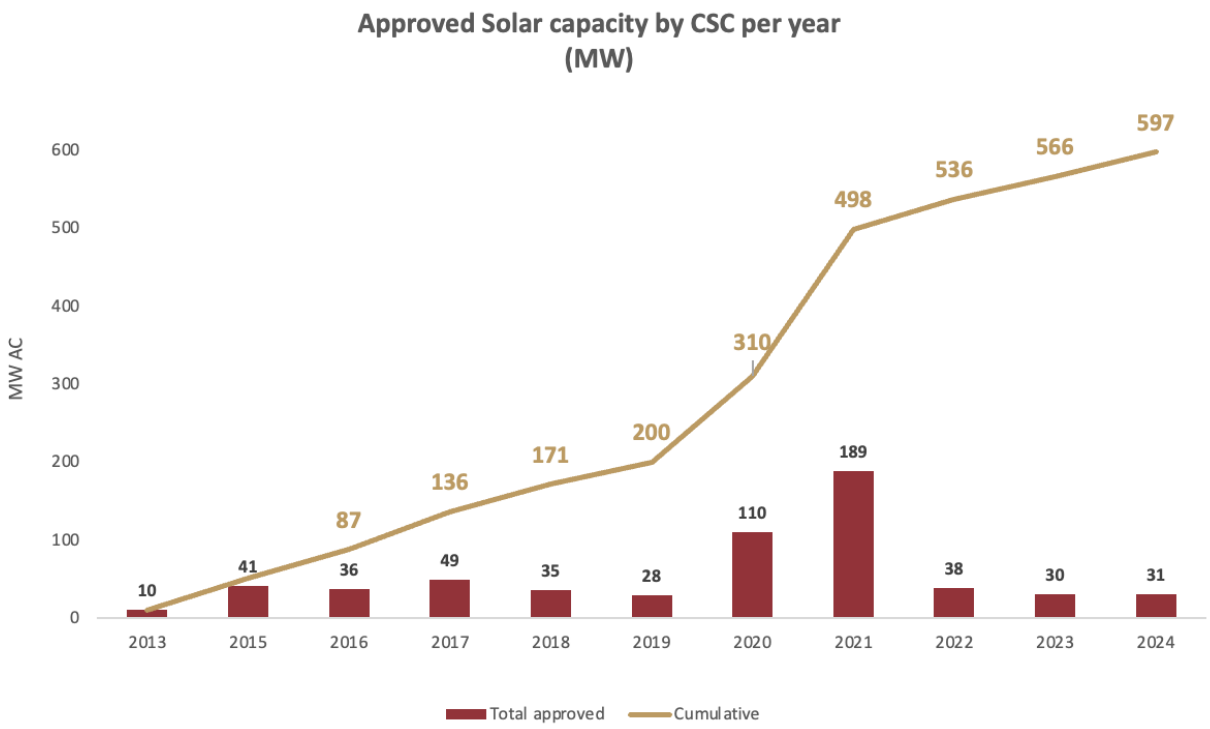
As a result, Connecticut has set ambitious goals to guide its GHG emission reductions:

- Attain 1990 GHG emissions levels by 2010 (achieved)
- Reduce GHG emissions by 10% below 1990 levels by 2020 (achieved)
- Reduce GHG emissions by 45% below 2001 levels by 2030
- Ensure no emissions from electricity supply by 2040
- Reduce GHG emissions by 80% below 2001 levels by 2050

Increasing electrification, renewable energy capacity, and investments in the grid are all essential parts of achieving Connecticut's climate goals for 2030 and beyond. A fundamental catalyst to ensure these renewable energy investments are possible in the State is the siting process, through which a project developer is given or denied authorization to build or upgrade renewable energy generation, storage, or transmission facilities.

The CSC's work has a significant impact on climate action and on achieving the State's emissions reduction goals. Through its rulings over the last decade, the CSC has approved the siting of nearly 600 MW of solar capacity in the State (for projects with individual capacities of 1MW or greater).[177] In addition to benefits related to climate, solar siting also provides air pollution benefits by reducing the need for operating fossil fuel-based electric generation resources already sited in environmental justice communities. Solar also contributes to meeting resource adequacy for Connecticut's energy needs and helps the electric grid to be more resilient, especially when paired over time with increased capacity for electric storage.

[177] N.B., there is a lag between "Approval" by the CSC and a project becoming "Operational."



Source: Created by DEEP based on information from the CSC

Alongside increasing electricity generation capacity, improved electrical transmission infrastructure is essential to allow for better access to clean, efficient and competitive energy supply alternatives. In the area of transmission, the CSC is also an important catalyst.

But these energy needs and considerations are not just local. In 2024, Connecticut joined a total of 10 Northeast states to establish a framework to improve interregional transmission planning and development, which will enhance grid reliability and accelerate the clean energy transition.[178] The continued expansion of renewable energy and transmission projects has placed additional burdens on State Siting authorities nationally, who must navigate complex regulatory frameworks and address community concerns to ensure the successful implementation of these projects.

[178] https://portal.ct.gov/deep/news-releases/news-releases---2024/newly-announced-agreement-on-electricity-transmission-moves-ne-states-toward-enhanced-grid

APPENDIX 22: CSC ROLE IN PUBLIC SERVICE COMPANY LAND ACQUISITION

The CSC performs certain functions related to the acquisition of real property by a public service company either: (1) when there is an intent to do so in advance of obtaining a Certificate or a finding that no Certificate is necessary; or (2) through condemnation.

Early acquisition of real property

Generally, before a potential applicant can acquire real property on which to site a future facility, the applicant would need to have either an approved Certificate from the CSC or a finding from the CSC that the project will have no substantial adverse environmental effect, so that no Certificate is necessary. There are certain exemptions where an acquisition must be permitted "(1) to avoid hardship for a property owner; (2) to prevent substantial development along a transmission route before the CSC can issue a decision; and (3) to allow for the modification of certain boundaries between an existing right-of-way and an adjoining parcel of land or an existing easement across land, for the convenience of the owner."[179]

Anyone intending to acquire property, pursuant to these three exceptions, must file a statement of intent with the CSC.[180] Regulations, promulgated by the CSC, list what is necessary for an applicant to include in the statement of intent.[181]

After the statement of intent is filed, the CSC can request to hold a hearing to evaluate the conformity of the acquisition to the statutory exceptions. To do this, the CSC must give notice within thirty (30) days[182] and a hearing is then conducted.[183] If no such notice is provided by the CSC, the land acquisition can proceed.

Acquisition of property through condemnation

If a public service company intends to acquire property through condemnation, it must notify the property owner of its intent by certified mail and include in the notification a statement that the owner can dispute the purpose of the condemnation in a proceeding before the CSC within 30 days of the notification.[184] To do so, the property owner must file a written request with the CSC for a proceeding to evaluate the purpose of the condemnation. The CSC provides the property owner

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[179] CGS Sec. 16-50z amended by P.A. 24-144.

[180] *Id.* and RCSA Sec. 16-50z-1.

[181] The information required to be addressed in the statement of intent includes: "(a) the reasons for the proposed acquisition; (b) a description of the property; (c) the names and addresses of any persons having an interest in said property; (d) the relationship of said property to any existing or future transmission facility; (e) the type of property interest to be acquired in said property; (f) the manner in which the advance acquisition of said property satisfied the requirements of said Section 16-50z (a) of the Connecticut General Statutes; and (g)" two maps as defined in the regulations. RCSA Sec. 16-50z-1.

[182] RCSA Sec. 16-50z-2.

[183] RCSA Sec. 16-50z-3 (the hearing is conducted in accordance with Section 16-50m of the General Statutes and the Uniform Administrative Procedures Act).

[184] CGS Sec. 16-50z (c) amended by P.A. 24-144. Public Act 24-144 made changes to the language of the notice that the company must provide as well as the timing of notification.

and the public service company with a notice of a proceeding. Thereafter, the CSC holds a hearing on the matter. A final decision must then be issued by the CSC no later than ninety (90) days after the CSC's receipt of the request for the hearing, although the timeframe may be extended by agreement of the parties. The final decision must make findings and state whether the condemnation is necessary and consistent with the state's energy policy.[185] The expenses of the CSC in conducting this hearing are paid for by the public service company.[186]

[185] CGS Sec. 16a-35k.

[186] CGS Sec. 16-50z amended by P.A. 24-144.

APPENDIX 23: PUBLIC COMMENT ON SCOPING NOTICE

Following are written comments received in September, 2024 in response to a public notice by DEEP requesting input on the scope, structure, and timing of a Draft CT Siting Council Report. Many of the comments submitted to DEEP focus on CSC issues beyond DEEP's request for input, notably those comments from residents and leadership from Fairfield associated with a CSC decision on a transmission line application (Docket 516).

I am writing to voice my objection to the construction of monopoles by UI in Fairfield.

When this plan was first made public, it described replacing the overhead gantries along the train tracks. These gantries are perhaps 40 or 50 feet tall and are not visible outside the immediate vicinity.

We now know UI plans to instead build ~150-foot-tall monopoles, forever damaging the aesthetic of our town.

This change would only harm the citizens of Fairfield while offering us no benefit or even a rationale for the purpose of these towers.

Message submitted as public comments from multiple people

I am a resident of Fairfield and want to express my concerns over the placement of monopoles in Fairfield by United Illuminating. These concerns have been expressed to the Siting Council which approved a change to UI's proposal with no hearings to include public comment.

We have a number of serious concerns which need to be addressed. Our hope is that DEEP can examine these issues and report to the Siting Council and the public. We would like your comments on the following issues:

- Indiscriminate, clear cutting of trees and vegetation
- Damage to fragile eco-systems
- Removal of critical habitat for birds and pollinators
- Disturbance of private property
- Unsightly poles marring the landscape and scenic view
- Danger to birds as they fly, perch, forage and migrate
- Intrusion into protected wetlands
- Destruction of precious historic areas

- Trespassing on property without a Right-of-Entry release
- Inability to hold the utilities to prior agreements about retaining trees and vegetation when their sub-contractors arrive and begin workI was thrilled when this bill was successful and gave you more influence in making decision about utility infrastructure.

I wanted to take this opportunity to express my concerns doubt utility infrastructure in our town.

All communities need to plan for climate change, and the impact of increasingly destructive storms.

The best long term solution is to bury utilities wherever possible. Many studies have shown that it is the cheapest alternative in the long run.

It also has many other benefits, including no visibility to unsightly poles and lines, no structures up in the air where they can harm wildlife, eliminates necessity of cutting trees and disturbing important habitats for birds and all pollinators,.

Please analyze with a long term lens on the impact.

I am a resident of Southport CT.

I strongly object to the installation of unsightly poles marring the landscape in the historical Southport village.

When it comes to major issues that directly and specifically influence a community, the overwhelming majority of voices in that community should be respected and obeyed, over the voices of just a few, even if those few are in power. The powerful voices I am referring to are the people in charge at UI. In this case, the many voices in our town of Fairfield have spoken and it is clear that this project has not fairly considered our wishes which are based on very serious and impactful concerns. Below is a partial list of those concerns, but I assure you there are *FAR* more concerns that hit upon a wide range of aspects and categories. Please hold UI accountable to the people that are going to be most affected by their decisions. Thank you for your consideration.

I was driving in the Chopsey Hill area of Bridgeport the other day and saw the big steel poles in a residential neighborhood. My heart goes out to those homeowners who have to live with that view. I

cannot understand why in this day and age there is not an alternative to these oversized massive structures in residential areas. We pay some of the highest prices in the nation. Our picturesque New England landscape is eroding by the minute. Please be considerate of homeowners when installing these gargantuan poles. So many have pleaded for underground wiring which seems to make so much sense in our windy climate.

Also, I have not seen a mapping from the UI for the planned pole installation for Fairfield. This should be public knowledge by now. Did I miss this information?

I oppose the installation of new overhead lines. I think they should be buried.

Please , please, please hear our voices.

We don't want clear cutting of Fairfield trees and vegetation. Your organization has caused damage to fragile eco-systems in our open spaces and parks.

Please stop taking land that is critical habitat for birds and pollinators. Please stop disturbing our citizens' private property.

But the absolute worst damage you can do is the installation of the poles marring the landscape and scenic views in our town of Fairfield. This will also cause major problems with our birds as they fly, perch, forage and migrate. Stop your intrusion into protected wetlands and please stop destroying of our precious historic areas.

I am a homeowner in Fairfield, and I am concerned about the possibility of UI building monopoles throughout our town.

I am concerned about the cutting of trees and vegetation, I am concerned about the impact this will have on our fragile ecosystems. I am concerned over the impact this will have on our wetlands, which are essential in flood mitigation, which is an ongoing issue in Fairfield and in CT as a whole. I am concerned about people entering my property. I am concerned about the impact this will have on our avian population.

I am also deeply concerned that this is being done as a cost-saving measure over underground wires. UI and other CT electric companies are some of the highest-cost providers in the nation outside of Hawaii. We are already being gouged as electricity is essential in modern life, and we are bound to use the companies that service our area.

Adding towers that, while saving the company a few dollars that it doesn't need to save, also damage our ecosystem, de-beautify our wonderful town, and make us more susceptible to power

outages due to the risk of trees falling on lines during frequent high-wind events; it's an insult to our town that should not be allowed.

Please, do not ignore our township rights. There are **no** farifielders who want this, and UI can afford to do this right.

I am a lifelong CT resident, who currently lives in Fairfield, CT. I understand that you are interested in comments concerning UIs planned utility pole project through fairfield. While I cannot speak to the specifics of that project, I write to relay our horrific experiences with a similar right of way owned by Eversource behind our property.

As you are likely aware, Eversource has been granted a new monopole project in this state, and in the process, been granted a blank check by the state to "secure" its lines.

Eversource has an easement behind my property, where it has large poles carrying electricity for the state. This year, they started a project to replace the poles behind my property with even larger (over 100ft) monopoles. While were assured -- by Eversource workers-- that these poles would not be larger than the previous poles, these new monopoles tower at least 30' taller -- substantially above our tall tree line that had previously blocked our property's view of these poles.

Once it erected these poles, Eversource began a vegetation removal project in its easement behind our property. In the past, Eversource would come through with workers with chainsaws every 4 years and remove "incompatible" shrubbery/trees while keeping the "compatible" trees. This time, when Eversource workers arrived behind my property -- unannounced, on June 7, 2024, there were no individual workers with hand saws but instead large "shredder" trucks which began **indiscriminately** shredding **all** vegetation, compatible or incompatible behind our property. Eversource's project's supervisor, provided no help or insight into the project and threatened our neighbors with police action for asking questions. There was no consideration as to whether a shrub was compatible or incompatible or how it would impact the surrounding properties. There was clearly no consideration for the wetlands in the easement or the natural habitats that exist there. Moreover there was no recourse for concerned residents who abut Eversource's easement.

I reached out to Eversource about our frustrations -- including a lack of notice about the project (which I understand they are legally required to give), a lack of communication during the project and a lack of reasonable scope by Eversource. Eversource representatives met with me and my neighbors and members of the first selectman's office on June 12. It felt like a productive meeting where our concerns were heard, and we were promised remediation work and more communication going forward. A few weeks later, on June 19, 2024, workers were again behind our property. I immediately called Eversource again, and after inquiring within, I was told that no further work would be conducted behind our property. On July 1, workers trespassed on our property (not on the easement) and cut more shrubs and vegetation. I asked them to leave and did

not grant them permission to be on our property. I was informed by Eversource that there was yet again a "miscommunication" and they would be continuing more removal of shrubs/trees.

We have since met with Eversource's tree warden, who appears to be targeting our property in particular and asking for our property to be restaked (despite it already having been staked twice) to see if there are additional trees to cut down. He admitted that these additional trees are not within the 25' zone from the poles/wires, and are on our side of the stone wall barrier between our property and the easement. Nevertheless, he recommended that our property be restaked and additional trucks be sent out to cut more from (only) behind our house.

Eversource has easements and properties throughout the state. Some are large, some are narrow, some abut resident's properties, some abut the state's highways, and some are in the wilderness. There must be different standards for shrubbery removal dependent on the location. Eversource's easement behind our property is small -- about 80' total (25' on each side of the poles). It is in a residential community. I was shocked to learn that Eversource does not follow state or federal regulations for its vegetation removal but instead sets its own vegetation removal standards which it alleges comport with these state and federal guidelines. Eversource and UI should not be allowed to set their own arbitrary standards. They must be forced to use discretion / reasonableness in easements that abut residential zones. They must be forced to only cut what is necessary to protect the lines. Instead, Eversource admits that (1) they have one guideline for vegetation removal regardless of whether their lines abut residential zones (2) they have not updated their vegetation standards despite having erected taller poles that clear the tree line.

Where I live, the impact to residents is great, and it is a fail on the part of Eversouce and a fail on behalf our state in not protecting its constituents from a goliath corporation like Eversource. Eversource should have a policy of reasonableness and must consider the impact to its neighboring properties. Cutting a low hanging branch that would have no impact to its 100' poles, but would have a large impact to my view of my backyard, seems like an easy solution for Eversource (and the state). The impact to the property owner of destroying this vegetation is great, while the impact to Eversource of using a more reasoned, calculated approach at removing incompatible vegetation is minute. The State's granting to Eversource a right to demolish people's backyards is reproachable. Eversource's lack of consideration or care towards its neighbors is disheartening, as all we ask is a reasonable approach. What is more disheartening is that we have tried, in earnest, to have clear communication with Eversource and, in return, have received miscommunication after miscommunication.

I'm a 30 year resident of Fairfield, and I believe the reason Fairfield is a great place to live is that it doesn't look like so many over developed Suburbs around major cities in the US... its because residents take pride in the looks and infrastructure choices in our town.

I remain very concerned about UIs plans to place monopoles through Fairfield, and believe it would have an adverse impact on many features of this town. I'm particularly concerned about damage to our fragile eco-systems... which may be caused by clearing swaths of land and cutting

of trees and vegetation. The risks include damaging habit for birds via excavation and tree removal, damaging protected wetlands, and causing danger to avian wildlife with the large poles. Additionally, the views and character of our town is what makes it special and different.... Having huge poles looming overhead would seriously diminish the appeal of our town. Please take actions so UI and future Utilities are thoughtful about where and how they upgrade utilities... rather than just taking the easy approach which will ruin our town.

My wife and I are the owners of Misha Properties LLC, the owners of 10 Spruce Street in Southport. That property consists of a very small lot on the corner of Spruce and John Streets immediately across from the north side of the Metro North tracks. The 4,000 square foot building on the site looks like is Victorian style home on a street with many Victorian style homes. Spruce Street is among one of the few designated historic streets in the Town of Fairfield and is steps away from Southport Village. I maintain my law practice there, and other business tenants also occupy the property.

There is simply no room for a monopole in this area. The office building and necessary parking areas utilize the vast majority of the property. Across the street there is a 5 foot easement between the street and the granite retaining wall holding up the Metro North tracks. There exists no place for the erection of a monopole.

This tree lined quaint street would be destroyed if 100 plus foot monopoles are erected here, even if possible, without destroying our office and property. Looking out my window now, I see church steeples hundreds of years old, not gigantic monolithic structures. Adding monopoles would destroy this beautiful, historic landscape and probably destroy this historic street and structure.

Please do NOT allow these monopoles to be erected.

As the leaves start to turn color in the historic garden by Long Island Sound that is Southport I am aware of the beauty but with apprehension. What if our opposition to the siting plans proposed by United Illuminating fails because the state takes the side of the utility ? If Southport is cut in 2 by these massive monopoles carrying power lines that can be easily buried in the railroad right of way ? Which will spoil the historic village ambiance and cast their ugly shadows on our beach, on our historic homes and long time village businesses and historic churches? This plan almost snuck through but concerned citizens with private donations mobilized to inform their neighbors that UI was waiting on approval by the state Siting Council to change our world. I love this display of the power of private citizens to rise up in opposition to power. The monopolistic power of UI will not prevail here or in any other community that is manipulated by lies and charades played by unscrupulous businesses.

Questions about monopoles to be constructed in my town of Fairfield, CT. I live about 1/2 mile from proposed site.

1. Are they safe? We had an earthquake in Fairfield last year. How strong of an earthquake can they withstand?

2. We are on the coast, with global warming and sea rise on the way. Can the poles and wires withstand the winds of a major hurricane? More importantly, can they withstand floods?

Note that Super storm Sandy (not a hurricane) inundated many blocks not so far from the proposed route and that a storm recently dumped a foot of rain in a couple of hours a few miles from here and was declared a disaster area.

3. How long is their projected life span? Who is responsible for maintenance? How often will maintenance be done? Are they to be fenced? Will they be surrounded by gravel, grass, concrete, weeds?

4. Why is it that the lines are buried from the NY line to Fairfield but it is not feasible to bury them here?

UI should bury the lines underground. The tall poles are unsightly and would cause property owners to lose some of their land via eminent domain. The majority of our residents oppose what UI is trying to do.

Fairfield resident

Please save our towns from utilities riding roughshod through neighborhoods! The amount of clear-cutting that has gone on in and around utilities is horrific. Please protect our trees and our eco-systems including habitat for birds, animals and beneficial insects. Do not allow utilities to harm wetlands.

Do not allow poles and never-ending wires to criss-cross our skies and ruin our historic areas.

We also need protection from the utilities' subcontractors that do not adhere to regulations.

I am writing to express my strong opposition to United Illuminating's (UI) plan to install a 7.3-mile stretch of massive monopoles along the Metro North Railroad tracks in Fairfield. This project,

which requires more than 20 acres of permanent easements on private and public property, raises several significant concerns that I believe must be addressed.

Firstly, the indiscriminate clear-cutting of trees and vegetation required for this project will cause irreparable damage to our fragile ecosystems. This destruction will remove critical habitats for birds and pollinators, which are essential for maintaining biodiversity and ecological balance.

Additionally, the installation of these unsightly monopoles will mar the scenic landscape of our town, negatively impacting the aesthetic value of our community. The presence of these structures poses a danger to birds as they fly, perch, forage, and migrate, further disrupting the natural environment.

The intrusion into protected wetlands and the destruction of historic areas are also of great concern. These actions not only violate environmental protections but also disregard the cultural and historical significance of these sites.

Moreover, the disturbance of private property without a Right-of-Entry release is a blatant violation of property rights. The inability to hold utilities accountable to prior agreements about retaining trees and vegetation when their sub-contractors begin work is unacceptable and undermines trust in these entities.

The recent passage of House Bill 5507 by the Connecticut General Assembly is a step in the right direction, as it aims to correct the unfair bias towards utilities in decision-making processes. This bill will ensure that the needs of Connecticut residents are taken into account more significantly in future infrastructure projects.

I urge the CT DEEP to use its strengthened voice, as empowered by HB 5507, to thoroughly review and reconsider the approval of this project. It is crucial to protect our environment, public health, and safety when making decisions about the placement of utilities infrastructure.

Thank you for your attention to this matter. I hope that you will take the necessary steps to prevent the implementation of this detrimental project.

Please protect our fragile eco-systems and the habitats that animals, insects, and birds rely upon for survival. They are unique to our town, and our town's infrastructure should absolutely support the wild life and natural settings that provide a critical backdrop to Fairfield and Southport. This includes burying electrical lines, anything else would be antiquated, and quite frankly cruel to the animals and habitats are a part of this beautiful town.

I am writing as a concerned citizen from Fairfield. The UI monopoles will be devastating to our areas history, properties, and to our wildlife. Cutting down all the necessary trees will not only be an eyesore, but it will displace animals and birds alike. Please do whatever you can to help!

In light of HB 5507, we want to raise to your attention our significant concern about the proposal of United Illuminating to place extremely large monopoles for electrical transmission through our community. As DEEP is preparing a study on how to protect the environment, public health, and safety when decisions are made concerning such utility proposals, I am hoping you will take into account our concerns.

Not only are such massive monopoles unsightly in a beautiful, historical coastal town, but they raise numerous concerns from an environmental and safety standpoint. We cannot afford to have Indiscriminate, clear cutting of trees and vegetation to make way for such poles. Our trees and vegetation are a critical part of our eco-system and we should not allow damage to our fragile eco-system.

This project appears to be simply a play by the utility to increase electrical transmission capabilities for their financial gain, while disregarding the needs of the communities they serve, allowing destruction of the beautiful local environment and raising safety concerns, while charging the customers to do it. If United Illuminating truly needs and wants to do the right thing for their customers (and helping themselves at the same time), they ought to invest in burying the lines under our roads, where it would not disturb our precious trees and vegetation, not disturb birds and pollinators, not intrude on wetlands, not trespass on private property or historic areas, and avoid unsightly poles. Burying the lines would also enhance the durability of the electrical infrastructure, being resistant to the increasing dangers of high wind storms.

Thank you for your consideration of these concerns on our environment and the safety of our communities. We sincerely appreciate the efforts of DEEP to look out for our communities, their safety, environmental beauty and long-term sustainability.

Regarding the study you are doing on how to protect our towns and villages from utility infrastructure plans, such as electric wire placement, that do not sufficiently consider community concerns, please prioritize the statements of the citizens who actually live in the affected areas.

Local residents know the “lay of the land” and how these projects can disrupt and impair neighborhoods and main street businesses. In particular, damaging private property, even inadvertently, as well as wildlife habitats — and the wildlife themselves — and trees, landscapes, wetlands, historic districts, and common sense road use.

There should be great scrutiny of utility company plans to take these “home town” factors into account — before decisions are made about approval — and more enforcement of restrictions when work crews actually arrive on site.

There are many reason to oppose this project, but my major concern is having a permanent swath of land under the control of UI accompanied by 100 + feet high poles towering over the tree lines though Fairfield, including the downtown shopping area, the Southport historic district, and the back yards of million dollar residential properties.

There is no reason why UI cannot put these lines underground. I do not understand UI's opposition to this clear and better alternative.

I am voicing my concern against the large monopole project in southern Fairfield. The monopoles will require clear cutting of vegetation as well as removal of mature trees. They are also ugly eyesores and will cause a decrease in biodiversity overall. I believe the utilities need to improve their infrastructure by undergrounding wires to protect our environment and neighborhoods. This investment is worthwhile in my opinion and deserves more serious conversation and consideration.

Please of not grant UI the rights to destroy Southport and Fairfield.

The proposed would only benefit UI, a company who has given us very high utility costs, and just so-so service. Every time the wind blows, essentially, we lose power.

Worst case, they can go underground on the existing (admittedly ugly) infrastructure. Best case, the whole thing (existing plus new) goes underground.

Be on the right side of history, and reject this. Do what is right for the community, the tax payers, the economy drivers.

In case it matters, I live in Southport.

IN Fairfield, UI is proposing installing separate monopoles to replace the current 115kv towers, which are attached to Metro North catenaries.

The proposed monopoles height can be up to 180 feet; this is considerably higher than the existing UI catenary towers .

The current towers and proposed monopoles will continue to be 115kv. Why is the such a significant increase in tower height.

Shorter towers would require a smaller foundation, which would require less space/impact and also lower total cost.

Additionally, the use of superconductor power lines would reduce weight and, in turn, reduce tower support requirements and overall size.

Moreover, superconductor transmission lines would enable increasing power without replacement.

Superconductors are not new, although there is new technology being developed as noted on the article (see link below)

https://news.mit.edu/2024/veir-transforms-power-grid-with-superconducting-transmission-lines-0626

As a lifelong resident of Fairfield, I am very upset about what is happening (and not happening) with the points listed below and how they affect the noise factor.

I live 2 miles from 95 and it is difficult to sit on my back porch with all the truck noise and the awful loud motorcycles - some days you can't hear yourself think, never mind having a conversation where you have to yell above the noise !

The noise difference between "before and after" all the clear cutting on 95 is significant.

When Fairfield residents can't even enjoy their own property, for which we pay high taxes on, it is disturbing and upsetting and quite the topic of conversation in town.

Please see attached letter to the DOT commissioner from the previous administration.

Are the barrier walls that exist elsewhere along 95 an option for Fairfield ?

Will you be replanting some trees and bushes as noise buffers ?

Thank you, in advance, for giving us back the nice QUIET town we grew up in and cherish.

When considering decisions about where utilities infrastructure is placed, please put protecting the environment and protecting public health as the most important consideration. Too frequently the financial interests of the utility is the most important issue considered.

Please include the following concerns in your upcoming infrastructure location study:

Indiscriminate, clear cutting of trees and vegetation

Damage to fragile eco-systems

Removal of critical habitat for birds and pollinators

Disturbance of your private property

Unsightly poles marring the landscape and scenic view

Danger to birds as they fly, perch, forage and migrate

Intrusion into protected wetlands

Destruction of precious historic areas

Trespassing on your property without a Right-of-Entry release

Inability to hold the utilities to prior agreements about retaining trees and vegetation when their sub-contractors arrive and begin work

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As Southport homeowners, we strongly object to UI's proposal to install monopoles along the railroad tracks in Fairfield & Southport.

These monopoles are sized for large-scale industrial transmission, which is not appropriate for our residential and historic neighborhoods, and the local schools that are also impacted.

From an environmental standpoint, our objections are numerous and we urge CT DEEP to take a stand on these to prevent UI from doing irreparable damage to our town.

Our specific environmental concerns, include:

- The clear-cutting of 6.5 acres of trees and vegetation that will not only destroy the quality, beauty & biodiversity of our environment, but will increase CO2 pollution and increase the already significant noise pollution that our neighborhoods face from I-95 and-Metro North.
- Damage to the fragile ecosystems around the monopoles, which include protected wetlands in sections of Fairfield and Southport.
- The use of additional pesticides and herbicides to kill the surrounding vegetation…which in addition to harming the delicate surrounding ecosystems, also pose myriad health concerns for the families and children who live nearby.
- And importantly, with the acceleration of climate change and increases in extreme weather and temperatures, these poles further increase our risk of wildfires when high-speed winds knock them down. This is obviously a major safety concern, as well, given that these poles will be located in densely populated residential areas.

Thank you for your attention to this urgent matter and for taking the necessary steps to protect our town, residents, and environment from UI's callous and dangerous proposal.

I am concerned about having the exceedingly tall and wide power lines built above ground and would like them buried, even at a much higher cost. They are unsightly and will ruin our town's vista.

Further, massive towers encroach on wetlands in the proposed plans, are a known health threat, endanger migrating birds, ground wildlife, and pollinators.None of this is good for our environment or for our planet.

There is, essentially, nothing positive about this proposal to build power towers above ground and along this route. They are a real threat to people's properties and their values.

Please install them below ground as they are in Westport and Norwalk.

Please see the list below of concerned citizens who object to the UI proposal to clear cut trees along the railroad tracks in Fairfield and Southport. This clear cutting will impact trees and vegetation in an already fragile ecosystem. Our environment is directly impacted by climate change which is a primary concern for all humans. It is a known fact that greenhouse gases contribute significantly to climate change. When UI burns fossil fuels to create its electricity CO 2, a greenhouse gas, is released into the air. Clear cutting not only increases CO 2 pollution but will raise the temperature of the land and will destroy its biodiversity. Science tells us that the leaves on trees and bushes help stop climate change by removing carbon dioxide (CO2) from the air. The carbon is then stored in the trees and soil causing oxygen, the remaining element, to be released into the atmosphere. This process of cleaning carbon from the atmosphere helps provide cleaner air for all to breathe. By denuding the existing buffer of trees and vegetation for 7 miles, UI is destroying the quality and beauty of our environment. Furthermore, UI is ignoring the report by the United Nations Intergovernmental Panel on Climate Change (IPCC) for the world’s need to reduce greenhouse gas emissions by 50% by 2030 in order to avoid global temperature increases causing catastrophic threats to humans and ecosystems.Therefore, the FGC urges UI to find a less harmful process for improving its electric transmissions. Sections of Fairfield and Southport border protected wetlands. And are considered historic areas which will be compromised and endangered. These power poles are sized for large scale industrial transmission which are not suitable for residential and historic neighborhoods or near schools. We must demand that utilities respect property owner's rights!!!! SAVE OUR CITIES.

These giant power poles are a destructive force throughout the entire state of CT (frequently being placed without forewarning or ability to comment from the towns affected). Unsightly, they will destroy sensitive environmental habitat for birds, wetlands, historic areas and reduce property values for electricity production that currently we do not need. Rather than aggressively rushing to place these poles, time should be spent to plan an underground transmission line. The UI and Eversouce were granted permission to operate in our state to provide a service. Instead, we are provided with a monopoly and nearly the most expensive electricity in the nation.

I am a lifelong resident of Fairfield and Southport, CT where, to this date, I have enjoyed selling real estate for 44 years. I am writing this letter with the hope that DEEP can influence United Illuminating to alter the horrible and environmentally devastating monopole plan in favor of underground installation of any new power lines.

In today's world, with extreme focus on the environment, virtually all forward-thinking municipalities and first world countries have had the foresight and sensitivity to install new utility lines and wiring underground. The proposed monopoles present the cheapest and most profitable option for United Illuminating, with the worst possible outcome for thousands and thousands of local citizens and our immediate environment.

The following issues are of most greatest concern -

1) Undeniable and irreversible environmental impact – Soaring towers and webs of wires creating death traps for birds and migratory flocks, further displacement of, and restriction of the movement of wildlife, and treacherous conditions for recreational aviation, which does in fact take place in the area and along the coast.

2) Yet undetermined health risks to all life - human, wildlife, and vegetation - both short and long term. Magnetic fields possibly spreading carcinogenic radiation through the airwaves. Certainly not enough study of colossal monopoles has been conducted in suburbia. This is a horrible risk.

3) Far-reaching visual blight in what is today an irreplaceable, quintessentially New England setting; permanently destroying the aesthetics of historically significant, picturesque assets of the State of CT namely - Southport Harbor, Southport Village, Fairfield Center and the historic Village of Black Rock in Bridgeport.

4) Severe property devaluation for our local citizenry, all for the sake of increased profits for a foreign owned utility company. The grotesque, towering monopoles will present complete visual blight for miles and miles. All of this, at the expense of the citizens of Fairfield and Bridgeport.

The local citizenry and I implore DEEP to influence United Illuminating to transition the outrageous monopole plan and burying the power lines underground. The cheapest option of towering monopoles will needlessly create an industrial corridor and blight where once plant and wildlife was abundant and unharmed and beautiful neighborhoods existed.

I implore DEEP to address this very grave issue.

I have been on the board of and am the Master Bird Bander for CT Audubon Society since 1986! I've seen a lot of change, but nothing that promises to be so damaging as the plan UI has for erecting giant monopoles all through Southport to Bridgeport. Clearly, this is not to the benefit of the population, especially to those who might lose their homes, and in an historic district!

I, being a naturalist, a bird bander , monitoring migration from Birdcraft Museum in Fairfield, am ever so worried about the environment! Clear cutting the trees along the railroad tracks(one of the remaining areas migrating birds use), not only affects the birds, but the historic Birdcraft building and its six remaining acres. The birds are challenged already with loss of habitat; it's irresponsible to even think of making it worse. I have already noticed a reduction of birds banded since 1986; I urge you to stop this senseless project!

This can be solved by SPENDING THE MONEY to put the lines, if needed, underground.

As a Fairfield, CT resident, I am deeply troubled by the idea of UI's new mega poles that have been proposed to replace the existing poles. The huge, unsightly structures will change the character of some important historic areas in our towns.

I am also concerned about the removal of plants and vegetation that are critical habitats for wildlife.

For these reasons, I am opposed to UI's proposal to install these new transmission lines in this manner.

I am writing to request the agency consider and act on Fairfield residents' opposition to United Illuminating's plans for monopoles requiring more than 20 acres of permanent easements on private and public property along the Metro North Railroad tracks in Fairfield, CT. Residents of Fairfield want underground energy lines. We oppose the unsightly poles marring the landscape and scenic view of our town and destruction of our town's historic areas. Additionally, I understand Fairfield will have an inability to hold the utilities to prior agreements about retaining trees and vegetation when their sub-contractors arrive and begin work. We want our town to have control over the project so citizens can have a voice in how it is conducted. The project should minimize any environmental damage to the eco-systems that surround our properties.

Thank you for the careful consideration of where to place public utilities infrastructure, and the opportunity to share my concerns. As a resident of Fairfield, CT, I am writing to share what my priorities are for utilities placement in Connecticut.

Specifically, my greatest concern is the lack of long-term consequences being considered in the planning process. There are a variety of slowly unfolding changes for both the human population and natural environment that need to be taken into consideration so that utilities are functional in the long-term as well as the short-term. The intrusion of infrastructure into environments that are critical to sustaining bird and animal populations should be eliminated as an option for utilities; this includes wetlands, bird habitats, wild spaces and historic areas. These fragile ecosystems are core to retaining the vibrant and healthy flora and fauna that is so appreciated by Connecticut's residents. Not only the placement, but the height of the ultra-tall poles being considered by UI would cause danger to birds, whose numbers have absolutely plummeted in the past generation.

In addition, the indiscriminate cutting of trees and vegetation, which takes generations to grow back to mature height but also eliminates critical habitats for birds and pollinators, should be avoided in any utilities planning. The need for a thoughtful, low-impact approach to infrastructure development should be at the fore of DEEP's plans.

While public utilities are undeniably a key value to all residents, so is the wellbeing of the environment and animal populations around us. Their decline will affect us in the long-term, which is why these immediate decisions need to integrate further long-term considerations.

I am writing to voice my objection to the United Illuminating's plans to install a 7.3 mile stretch of massive monopoles requiring more than 20 acres of permanent easements on private and public property along the Metro North Railroad tracks in Fairfield. I believe these plans were made without consideration to the surrounding environment when alternatives are available. The indiscriminate cutting of trees causing both disturbances to the fragile eco-systems as well as the scenic landscapes is not justified when there are other options. The decision to install 7.3 miles of massive unsightly poles in a historic town known for its picturesque landscape should have been made with more thought and compassion for the residents affected.

Please accept my input on monopoles and above ground wires. I live in Fairfield and I am NOT in favor of monopoles. I think electrical wires should be buried. Monopoles are unsightly, do not belong in our historic district or right down the center of our town. Fairfield is a town, not a city. Please respect that.

I am writing to express my deep concern regarding the installation of a 7.3-mile stretch of large monopoles, which will require over 20 acres of permanent easements on both private and public property along the Metro North Railroad tracks in Fairfield. This development poses a significant threat to the character and scenic views of our communities in Southport, Fairfield, and Bridgeport.

As a property owner and northside abutter of the Metro North tracks in Southport, I have experienced first-hand the actions taken by United Illuminating with the assistance of a third party, Cornerstone, to access my property and those of my neighbors without a Right-of-Entry agreement. I have invested considerable time and resources into my home, and the potential loss of my land is a serious infringement on my property rights.

The decision made by the Siting Council (CSC) to alter the original plan, which previously targeted the south side with implications for historical sites such as the Pequot Library and the Southport Congregational Church, has now shifted unexpectedly to the north side. This change has sparked considerable outrage within our town. It appears that the CSC has not exercised its authority in a manner that reflects the best interests of the citizens of Connecticut. Furthermore, the rising costs of our electric and utility bills are becoming unsustainable for many residents.

Additionally, the removal of trees and vegetation associated with this project will have adverse effects on our local ecosystem. Our community is already facing challenges with wildlife, particularly deer, and the introduction of these large structures may further exacerbate these issues and harm the landscape we cherish.

It is crucial that United Illuminating, their parent companies, and the CSC are held accountable for this project. As residents of this town, we deserve to have our voices heard and our rights upheld. I respectfully urge your assistance in halting this project and advocating for the burial of the power lines to preserve the integrity of our community.

Please stop the UI company from installing monopoles along the railroad tracks through Fairfield.

The plans have numerous intrusions to inland wetlands which no private entity would be able to encroach upon. The poles are unsightly and will destroy both private properties and historical areas of town. They also plan to remove many mature trees which are critical to our bird population.

The fact that natural vegetation such as trees and shrubs provide emotional calming and restorative powers, and in light of the facts that our world is negatively impacted by an increase in daily intensity much of which is caused by the pervasiveness of high speed Internet, every effort should be made by utilities to promote growth of large trees and vegetation.

Clear cutting is clearly destructive! Not just to every living creature in its habitat. But the result of clear cutting is similar to a prisoner being forced to endure a blank room with a naked light for days and weeks on end. How many fragile minds will be affected and at what cost?These questions must be considered when dealing with clear cutting.

Clear cutting can denude a bucolic historic landscape in a flash thereby resulting in serious financial impacts.

The purpose of HB 5507 is to guide legislators to think deeply and intelligently. To give lawmakers tools for responsible growth decisions. I hope all of Connecticut will benefit from HB 5507.

It is unconscionable that Connecticut and town governments have allowed these rapacious monopolies, (UI, Eversource, Aquarion, etc.) to run roughshod over the citizens and taxpayers of this town and state. They should never have accumulated such power and eminent domain should not be allowed to further enrich them. This is not the proper use of this instrument.

Thank you for your consideration In this matter and with great hopes you will lend your voice to the cause of the citizens.

APPENDIX 24: SUMMARY OF PUBLIC COMMENTS/THEMES

6. Introduction

The Connecticut Department of Energy and Environmental Protection as part of its responsibilities was tasked with receiving public comment on the Draft Report on the Connecticut Siting Council. All public comments were considered in the development of the final report. We appreciate all of the thoughtfulness that went into public comments.

On December 5, 2024, a hybrid public comment session was held. Fifty-six (56) people attended either in person or virtually on Zoom. Ten (10) individuals provided oral comments at the session. A number of those individuals submitted written comments, some of which were substantially similar to their oral comments.

Following the public comment session, comments were received through December 13, 2024, by email and through an online survey. Forty-seven (47) written and survey comments were received in total. Approximately 30 of the written comments were nearly identical form letters.

Both the oral and written comments were reviewed to capture the themes that emerged from the comments. Those are summarized below, largely in the phrasing or apparent intent of the commentor. What follows is a summary of the general themes across areas, comments received at the public comment session and comments receive in writing. To the extent possible the comments are grouped by the chapter or section of the Draft Report. Where a comment was in the form letter it is designated by (F) when multiple commentors made a similar comment a √ is included. A greater number of check marks indicated that this comment appeared more often – the number of checks does not indicate the exact number of similar comments.

7. Summary of general comments/themes:

Process & Transparency

- Make the process clearer and more transparent √√√√
- Clearly articulate the member designation for each seat – expand representation to include agriculture, environment/conservation, EJ communities √√
- Be clear about how feedback/comments are incorporated √√
- Make it easier for citizens to participate √
- Use plain language
- Take public concerns seriously – analyze and address each one/require CSC to provide written responses √√
- Require the CSC to hire a Director of Community Engagement and Governmental Affairs to better engage community members √√√
- Specify explicit criteria for determining whether a facility will have cumulative impacts, environmental impacts, and environmental justice impacts, and whether a public need for the facility exists √√√√

- Require the CSC to hold a public hearing on every petition by default, while retaining the option to "opt-out" of a public hearing upon a vote to do so √√√
- Public notice should be given in a meaningful way
- Information on Sub-Petitions is no longer available on the Siting Council website

CSC Authority/Scope/Duties/Responsibilities

- Grant the CSC express authority to deny permits and petitions for affecting facilities if the CSC determines there are less harmful alternatives

Learn from Other States

- New York and Massachusetts have shown us it's possible to build new energy infrastructure fairly and effectively
- Look to other states as models √√

Funding

- Expand funding for compensation to municipal representatives to participate in CSC decision-making processes
- Provide funding to train residents to participate in the siting council decision making process √√

Other

- Appreciation for EJ focus
- Increased specificity and action steps for report recommendations

8. Summary of general comments/themes from public meeting – December 5, 2024

Stakeholder Engagement

- Important to get more stakeholders involved
- The public wants to be involved
- Increase educational opportunities for stakeholders
- Provide more opportunities for the public to comment/testify
- Appreciation for agency efforts to engage/increase public input opportunities √√
- Allow for municipal input after initial meeting

Process & Transparency

- Lack of transparency is an issue √√
- There needs to be more transparency between CSC and municipalities
- Process needs to be clarified – it is difficult for people to navigate
- Siting Council needs to have better guidelines for settling disputes, especially where property has been transferred
- Improve analysis to include NY and MA

Environmental Impacts

- Need to be clear about what the environmental impacts will be √√
- Need for directed criteria for addressing adverse environmental impacts
- Water is a key issue – wasn't considered when looking at environmental issues
- Where is the definition of "substantial adverse environmental effect"?

Environmental Justice

- EJ community has problems not just with facilities but also with pollution

Economic Impacts/Funding/Finance

- More clarity of economic development program
- When looking at something need to look beyond just "lowest reasonable cost" and consider long-term costs and what is being lost
- Siting Council needs to take a more active role in protecting local economic impact and taxing revenue
- Create a more robust set of metrics to assess impacts and impose limitations on developers before approving projects
- Siting Council as responsibility to investigate costs
- Request that an independent 3rd party review costs of projects and determine efficiency of costs of projects
- Community based organizations do not have the funding to engage in dockets like this
- There are provisions for cities/towns to get funding and community-based organizations should receive the same funding
- Funding coming to the city will change cities' perspective on projects and needs of community served
- Community based organizations should have access to the $40,000.00

9. Summary of written comments/themes by chapter

CHAPTER 1: SITING COUNCIL HISTORY, JURISDICTION & RESPONSIBILITIES

- Membership: Clearly articulate member designations for appointments (in categories with less gubernatorial discretion)
    - Areas needing representation/inclusion
        - Agriculture √√
        - Environment/conservation √√√√
        - EJC (F) √√√√√
        - Municipal √√
    - Public membership should represent historically marginalized communities (a reference to Equity & EJ Advisory Council)
    - DEEP should have representation from both energy and environmental quality bureaus

- Increase clarity of input of DEEP & Dept of Agriculture on Siting Council Decisions √√
    - Greater clarity on "no material impact", - 2MW photovoltaic. Require DEEP Bureau of Natural Resources consultation for smaller facilities.
    - DEEP & Dept of Agriculture should be less permissive in evaluations
- Reconcile definitions of continuous and core forest block sizes √√√
    - Evaluation of smaller solar facilities on core forests
    - Urban forests should be included
- Process clarity in decisions
    - How factors are weighed in decisions (F) √√√
    - Explanation of terms (F)
    - Increase clarity of "other community concerns" and how public input was considered (F)
    - Establish criteria for impacts: cumulative, environment, EJ, (F) √√√√√
        - With respect to EJ consider FERC regulatory guidelines to avoid potential conflicts
    - Include specific responses to public comment (F) √√√
    - In addition to economic development impact also address the need for economic impact assessment and need for guidelines / criteria for impact on property owners/community/municipality of utility easements for rights of way (F) √√
    - Consider impacts of solar projects to scenic, historic, and recreational values
        - Add residential to scenic, historic and recreational values
    - Clarity on the capacity to deny, modify and consider alternatives to presented projects
    - Include Global Warming Solutions Act and climate goals explicitly in decisions √√
    - Inclusion of ecosystem services in considerations
    - Enhance/prioritize forest and water resource protections √√
    - There should be greater clarity on who, what and how "substantial environmental impact" is determined
    - Decisions should incorporate energy security to a greater extent and the negative impact of solar on rates and use of forest and farmland
- Jurisdiction –
    - Increase jurisdiction to include waste transfer stations, chemical recycling & hazardous waste facilities (F) √√√√
    - Add exclusive authority over renewable energy siting facilities over a certain threshold (including battery storage and transmission), similar to MA Energy Facilities Siting Board
    - Include impact of ancillary activity by electric generation and the impact on the energy grid
- Clarification of intersection of relationship to other state agency permitting processes
    - Increase collaboration/coordination among agencies
- Allow for denial of permits and decisions if there are less harmful alternatives
- Question: use of authority to order restoration (vegetation) in transmission line right of way.

- Support for recommendation to incorporate staff or technical consulting expertise into the application & review process (F) √√
- Statewide infrastructure planning should be considered (F) √√
    - Grid resiliency
- Need for member expertise on the Council re: ecological impacts
- Increase economic considerations in analysis to include external costs on ecosystem services √√
- Greater consideration on direct and indirect EJ impacts √√
- Report should more clearly delineate municipality's role in the application process
- Establish a preference hierarchy for solar development to preserve prime forest and farmland and environmentally sensitive areas and use rooftop and degraded lands, EJ communities and distributed generation
- Need for independent verification of applicant testimony – e.g., abutter notification
- Need for inclusion of town jurisdiction & economic development plans

CHAPTER 2: SITING COUNCIL COMPARED TO OTHER STATES

- Increase community input/environmental protections based on practices from other states (MA, NY), consider cumulative impacts √√
- Consider NY & NJ in comparator analysis
    - NY Office of Renewable Energy Siting and Electric Transmission; Public Involvement Plan requirement √√

CHAPTER 3: OVERVIEW OF APPLICATIONS AND PETITIONS

- Hearing by default on petitions with an opt-out (F) √√√√√√
    - Petitions for Declaratory rulings should have mandatory hearings with any exception made with an articulated written decision
- Question: DEEP review of sample of environmental assessments for compliance with guidelines, completeness and the efficacy of the guidelines.
- Report should consider the inclusion of sub-petition process used by utilities for approval for transmission line maintenance in rights of way (streamlines approvals with assumptions not supported by field experience by the commenter) and the sub-petition process (√√) should have improved documentation and assessment
- Consider the number of solar facilities in a town
- Consideration of watershed and aquifer protection √√√
- Include reasons for differences in timeframes for decisions as they relate to facility type/jurisdiction (FERC, wind jurisdiction) √√
- Include definitions of terms and criteria for decisions

CHAPTER 4: APPLICATION FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

- The report should examine Council allowing utilities use of "asset condition" projects by also seeking transmission line upgrades. DEEP can educate the Council and require that where there is no load growth there should be line replacement not upgrade to capacity

CHAPTER 5: PETITION FOR A DECLARATORY RULING

- Question: potential declaratory ruling projects voluntarily placed in certificate process to avoid DEEP & Department of Agriculture letters of no material impacts (Potential loophole)
- CSC role in watershed, including water resources, and protection from erosion and other impacts of large-scale solar projects through planning and siting √√√√; consider charge to adhere to similar standards as planning and zoning commissions for protecting public health, safety and welfare. Recommendation to include additional documentation.
- CSC should hold public hearings on request for petitions with timely notification to the public
- Municipal governments should be required to hold public hearings upon request with comment/question opportunities
- CSC should give deadlines when denying a petition without prejudice

CHAPTER 6: SITING COUNCIL PROJECT OVERSIGHT POST-APPROVAL

- Question: has staff/consultant time been tracked for field inspections and compliance verification and results and actions of the inspections. Related costs billed to Certificate holder.
- Question: Degree to which CSC exercises review powers and tracking of violations and actions.
- Question: Process for engaging and deference to CSC independent consultants, DEEP comment on work, criteria and factors used by consultants.
- Report could increase clarity on decommissioning phase
- Clarification of CSC authority to ensure conditions of declaratory rulings are met
- Better verification of on-ground conditions as depicted in applications and reports
- Better oversight is needed during project implementation
- MW thresholds should be revised to address changes in technology such as daisy chaining modular fuels cells/incremental projects that individually would not meet current thresholds but cumulatively would

CHAPTER 7: OPPORTUNITIES FOR PUBLIC PARTICIPATION IN SITING COUNCIL WORK

- Enhance public notice – breadth and time for preparation, review, response (F) √√√
- Have staff member assist public (community engagement staff) in how to participate (F) √√√√√√
    - Add Public Participation account similar to Municipal Participation Account √√
- Provide training for the public on how to participate √√

- Remove exemption for petition pre-filing consultation with municipal leaders and state legislators and have meaningful public notice to affected communities
- Enhance and increase participation of municipal and legislative leaders
    - Increase in fees and recovery of attorney's fees if prevail in judicial review
- Question: criteria and consistent application for when CSC "deems" a public hearing should be required.
- Prior disclosure of proposals before decisions – informational hearings for comment to CSC, in the community
- Ease requirements for intervenor status
- Website docket structure can be confusing for the public to the determine the status of project
- Clarify the results of different types of participation and pathways to submit information or comment
- Enhance public process – timing, locations, language, food, childcare, amenities, plain language documents, etc.
- Community compensation/stakeholder group compensation fund as a model
- Greater clarity on DEEP's recommendations (vs. stakeholder recommendations) concerning public engagement and the costs, responsibilities and impacts of the recommendations
- Further analysis of recommendations before any legislative action – stakeholder working groups with scopes of work to refine recommendations
- Simplify the intervenor process
- Allow for public comment without 24-hour prior registration requirement; allow for public comment at both the beginning and the end of hearing
- Field reviews should be restored

CHAPTER 8: PUBLIC CONCERNS – NOISE, VISUAL, AND COMMUNITY IMPACTS

- Separately identify types of public concerns analyzed in the report
- Better identification of concerns regarding impacts on core forests and prime agricultural land
- Include total consideration of all (solar) projects' spatial geographical distribution in a geographical area (beyond one municipality) to reduce the burden or negative impacts in one area
- Regulate noise, visual and community impacts of ancillary activity or use of electrical generating facility
    - Require comprehensive assessment of ancillary activity or use (data centers)
- Local noise ordinances may be too vague to be enforceable and the state should play a role
- Report should address comprehensive environmental impact assessment in greater depth with summaries
- Report should provide insight and opportunity for public input during the process of DEEP letter of no material effect (including process, criteria and role of comprehensive environmental assessment

CHAPTER 9: RECOMMENDATIONS FROM STAKEHOLDERS

- More clarity on CSC powers, duties and responsibilities with respect to environmental quality standards & enforcement – particularly with rights of way and impacts of construction pads (√√), impacts of ROW work on transmission of invasive species, heavy equipment, et al
- Concern with stakeholder recommendation for increasing PURA role in CSC and implications for asset condition conflicts and resulting liability or liability disclaimer and with respect to overlap of state and federal jurisdictions
- There are areas where there is ineffective oversight by CSC and over reliance by the CSC on utility opinions, e.g., for "public need". Suggestion: add independent third-party expert for technical review for transmission line projects prior to filing of application
    - Similar recommendation for independent of costs/appraisers and alternative proposals (undergrounding, easements)
- Greater accountability regarding cost impacts on rate payers

APPENDICES:

Appendix 19

- Achieving emissions reductions to achieve climate goals will impact resources and natural processes necessary for mitigation and adaptation. Siting impacts on habitats, water resources, and flood mitigation. Look at climate goals in Governor's Council on Climate Change

APPENDIX 25: WRITTEN PUBLIC COMMENT ON DRAFT CSC REPORT

Following are written comments received in response to the *Notice of Public Meeting and Request for Public Comments on the* Draft CT Siting Council Report.

As part of this process, DEEP made the Draft Report available for public review and solicited feedback through a Public Comment Meeting held on December 5th, 2024 with written comments accepted through December 13th, 2024. The following comments reflect a broad range of perspectives on the findings and recommendations outlined in the Draft Report.

Comments received by email

Thanks again for including us in this process. I've had a chance to review the draft report, and I think it really captures some of the concerns and areas for improvement we covered in our call together with Elisabeth. It also addresses well the enforcement concerns, project tracking, per diem rates, and how the website and public interaction can be improved.

I will highlight here a few areas that may not be coming across in the report that we discussed.

1) The CSC should clearly articulate the member designation for each seat, as I sit on the CT Energy Efficiency Board, we have in statute specific representations needed to serve on the EEB that DEEP appoints as spots are vacated. To be more transparent and ensure the CSC is well represented I had raised this on our meeting that we need to see representation from ag, environment/conservation, EJC, etc. You had pointed out there were some new appointments made this year which is great, but with the appointments being vague and Governor appointed that can change from one administration to another.
2) We talked about how there is concern on the input that DOAG and DEEP provides on projects, but its not always clear how those comments shape the outcome of a project. Is it just a formality and the project moves forward regardless, more transparency around this is important.

I'm writing to share my thoughts on the draft report about the Connecticut Siting Council. I believe all of us in Connecticut deserve clean air, safe neighborhoods, and a meaningful voice in decisions that affect our lives. But the current process for deciding where energy projects are built doesn't fully protect people or ensure transparency.

Too often, polluting projects end up in neighborhoods already struggling with high rates of asthma, heart disease, and other health challenges. Families are left without a meaningful voice in decisions directly impacting their health and well-being. It's time to create a better process that puts people first when deciding where to build new energy projects. Specifically, I urge you to:

1. Learn from Other States. States like New York and Massachusetts have shown us it's possible to build new energy infrastructure fairly and effectively. New York has created a system that makes the permitting process more efficient while ensuring communities have a voice and that environmental protections are in place. Massachusetts has gone further by requiring cumulative impact analyses, which help prevent new projects from worsening pollution and health burdens. We deserve a similar process here in Connecticut to protect our health and environment.

2. Make the Process Clearer. Right now, it's hard to understand how decisions about energy projects are made. The report lists some of the factors the Siting Council considers, but it doesn't explain how these factors are weighed or how environmental impacts are judged. Explaining this in plain terms would make the process easier to understand and build trust.

3. Take Public Concerns Seriously. The report groups issues like noise, pollution, and farmland loss under "other community concerns," but these are very different problems that deserve more attention. Separating them into clear categories and analyzing each one would show that public input matters and is being taken seriously.

4. Make It Easier for People to Participate. Getting involved shouldn't feel impossible. But meetings are often poorly advertised, timelines are too short, and the process can feel overwhelming. Connecticut should give people more notice, allow more time to review and respond to proposals, and make the process easier to navigate. A dedicated staff member to help residents participate would make a big difference.

This is a chance to create a healthier, fairer, and more sustainable future for all of us here in Connecticut. I hope you'll take action to make sure the process works for everyone, especially for those who are affected the most.

One email submitted as public comments from dozens of people

As a resident concerned with the inequitable siting of facilities in marginalized communities, I'm writing to submit the following comments on the Draft Connecticut Siting Council ("CSC") Report prepared by CT DEEP. First, I appreciate the Draft Report's focus on Environmental Justice and support its recommendations for enhancing public education, participation, and engagement. To further address inequities in the siting process, I urge DEEP to include the following additional recommendations in its report to the Legislature:

- Require more representation of state-designated Environmental Justice Communities and Connecticut-based environmental advocacy organizations on the CSC;
- Expand funding for compensation to municipal representatives to participate in CSC decision-making processes;

- Provide funding to train residents to participate in the siting council decision making process;
- Require the CSC to hire a Director of Community Engagement and Governmental Affairs to better engage community members;
- Specify explicit criteria for determining whether a facility will have cumulative impacts, environmental impacts, and environmental justice impacts, and whether a public need for the facility exists;
- Require the CSC to hold a public hearing on every petition by default, while retaining the option to "opt-out" of a public hearing upon a vote to do so;
- Grant the CSC express authority to deny permits and petitions for affecting facilities if the CSC determines there are less harmful alternatives;
- Classify solid waste transfer stations, chemical recycling facilities, and related hazardous facilities as "affecting facilities," in recognition of their adverse impact on public health;
- Require the CSC to provide written responses that specifically address any environmental justice concerns raised by any public commenter (in addition to those raised by agencies and intervenors)

Thank you for the opportunity to provide comments on the scope of the CT Siting Council Report, and for working toward more equitable governmental decision making.

My comments on the draft Connecticut Siting Council Report are related to Section 12 of P.A. 24-144, particularly subsections:

(1) the scope of the Connecticut Siting Council's (CSC) powers, duties, role and responsibilities,
(3) the processes for issuing a certificate of environmental compatibility and public need or approving a petition for declaratory ruling;
(4) the council's oversight of completed projects;
(5) the criteria used by the council in evaluating applications,
(7) how the council evaluates economic, conservation and development project impacts,
(8) the efficacy of the councils' processes for developing evidence, and
(11) the policies, procedure and processes for inclusive public engagement in decision-making.

Many of my comments are applicable to multiple subsections and where that occurs, it is so noted.

(1) <u>The scope of the Connecticut Siting Council's (CSC) powers, duties, role and responsibilities</u>
On page 16 of the draft report, the following is noted as one of the CSC's statutorily required duties and commented upon by the report's drafter:

> *<u>9. Ordering restoration or revegetation:</u>* As part of its supervision of construction activity related to transmission line projects, the CSC may order restoration or revegetation of the right-of-way occupied by overhead transmission facilities. The CSC's jurisdiction here is

limited to transmission lines and is separate from PURA's jurisdiction over to utility vegetation management on smaller, local electric, fiber optic, and other distribution lines.

How often does the CSC so order? Is it carrying out this power, duty, role, and responsibility set forth in subsection (1)? The answer to the question is relevant to the examination of the CSC's ability to balance the need for facilities and the need to protect the environment. The answer is also relevant to subsection (4).

Some of the mechanisms through which the CSC oversees completed projects are set forth on page 31. Among these "mechanisms" are "field inspections and compliance verification." Did DEEP determine which staff or CSC-hired consultants conducted field work, approximately how many hours of staff/consultant time was expended on field work, the nature of things discovered as a result of field work, and how the results of the field work were brought to the attention of the CSC and addressed? This is certainly relevant to CSC's duties, roles, powers, and responsibilities. And, the answers to these questions are also relevant to subsections (4) and (11).

Relative to the subject field work, the study goes on to note that "any expenses related to these inspections are charged to the Certificate holder." What was the dollar amount for these expenses?[187] What things constitute "expenses"? In addition to being relevant to subsection (1), the answers are also relevant to subsection (4).

Another mechanism through which the CSC oversees completed projects is "enforcement of penalties." (See pages 31-32). According to what is set forth in the draft study, the CSC can go to court to seek restraining orders and temporary or permanent injunctions, and obtain civil penalties. Since the inception of the statutes that allow for these penalties, how many have been pursued and obtained and for what action or inaction by the Certificate holder?[188] The answers to these questions are relevant to the CSC's powers and duties. They are also relevant to subsection (4).

The draft study also notes that the CSC can conduct a "Certificate review proceeding," and, if violations are found, the CSC can issue orders, including the revocation of the Certificate. (See page 32). Did DEEP determine whether the CSC exercises this power, and, if so, the nature of the violations and nature of the orders issued by the CSC? The answers to these questions are important to assessing CSC's oversight role and the success of addressing issues that arise post-construction. The answers are also relevant to subsections (4), (8), and (11).

On page 18 of the draft report, it is noted that : "After receipt of an application for a Certificate of Environmental Compatibility and Public Need …, the CSC can also employ one or more independent consultants to study and measure the consequences of the proposed facility on the

[187] Here, and in other questions I raise, the time period for the suggested look-back for information will need to be determined by DEEP.

[188] Who represents the CSC in the exercise of its powers to enforce petitions/certificates or seek penalties? If it is an attorney from the Office of the Attorney General, it may be relevant to know whether CSC provides any portion of the salary relative "expenses," and if it is outside legal counsel, again, is this part of the "expenses"?

environment. The CSC can direct the consultants to examine any important matter for an adequate appraisal of an application, and the resulting report becomes part of the record of the proceeding."

How often has CSC hired an independent consultant? What is the process of hiring them? Does the CSC give deference to the consultants' study and conclusions? Does CSC ask DEEP to review and comment on such consultants' studies and measures? What criteria or factors are used by consultants in conducting their study?[189] The answer to these questions is relevant to the examination of the CSC's ability to balance the need for facilities and the need to protect the environment. The answers are also relevant to subsections (3), (4), (5), (7), and (8).

(3) The processes for issuing a certificate of environmental compatibility and public need or approving a petition for declaratory ruling

It is noted on page 23, that "most projects follow the Petition pathway, with 393 Petitions and only 42 applications for Certificates submitted over the past 5 fiscal years. As you know, solar panels with a capacity of 2 or more megawatts are exempt from the Certificate process and fall within the Declaratory Ruling process. That process requires the Petitioner to obtain from DEEP and/or the Department of Agriculture (DoAg), as the case may be, so-called letters of no material effect if the proposed project will affect core forests or prime farmland.[190]

It may be relevant to determine if projects that could have fallen under the Declaratory Ruling process are voluntarily placed in the Certificate process in order to avoid the need to obtain letters of no material affect from DEEP and/or DoAg where core forests and/or prime farmland would be adversely affected since such letters might not be obtainable in the Declaratory Ruling process and are not required in the Certificate process. In other words, does the absence of a requirement for the Applicant to consult with DEEP and DoAg in the Certificate process provide a loophole allowing Applicants to destroy core forests and farmland? Additionally, in Applications where core forests and/or prime farmland will be affected, has CSC, on its own, sought the advice of DEEP or DoAg relative to core forests and/or prime farmland?

The answers to all these questions are relevant to the certificate of environmental compatibility and declaratory ruling processes. They are also relevant to the evaluation of subsections (1), (3), (5), (7), and (8).

(4) The council's oversight of completed projects

The charts on pages 27 and 30 do not seem to include the period of decommissioning. Decommissioning is an important aspect of each project, especially to the affected communities

[189] If any other criteria are used, should CSC's criteria be revised?

[190] § 16-50k(a) Conn. Gen. Stat. ("Notwithstanding the provisions of this chapter or title 16a, the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling (A) the construction of a facility solely for the purpose of generating electricity, … as long as: … (iii) for a solar photovoltaic facility with a capacity of two or more megawatts, to be located on prime farmland or forestland …, the Department of Agriculture represents, in writing, to the council that such project will not materially affect the status of such land as prime farmland or the Department of Energy and Environmental Protection represents, in writing, to the council that such project will not materially affect the status of such land as core forest.")

and the restoration of prime farmland, if such land was disturbed because of the project. This point is also relevant to subsections (1), (7), and (11).

(5) The criteria used by the council in evaluating applications

On page 24, the filing guides that CSC provides for applicants and petitioners are set forth. And, as noted on page 37, the CSC requires a "comprehensive environmental assessment." Did DEEP review a representative sampling of such assessments to determine whether the filing guides were being followed, whether the guides were providing the type and thoroughness of information needed to evaluate applications fully and appropriately, and whether the guides are sufficiently comprehensive? Answers to these questions are needed to assess the criteria used by the CSC in evaluating the environmental impacts of applications and petitions. The answer to these questions is also relevant to subsections (1), (3), (4), (7), and (8). Are any legislative changes needed as a result of such an examination?

(11) The policies, procedure and processes for inclusive public engagement in decision-making
As noted on pages 33-34, Petitions do not require a pre-filing consultation with municipal leaders and state legislators and only those who have signed up to receive notice from the CSC will get notice of a pending Petition. Given the potential visual, noise, erosion, and other community and environmental impacts that can result from projects associated with petitions, they should not be exempt from pre-filing consultation with municipal leaders and state legislators, and public notice should be given in a meaningful way to affected communities. It is understood that legislative changes will be necessary to require this, but DEEP can recommend that CSC sua sponte at least provide meaningful public notice in the interim.

(8) The efficacy of the councils' processes for developing evidence

On page 34, it is noted that the CSC has the option of holding a public hearing on a Petition if it deems that one is required. What criteria or factors does CSC use or consider to "deem" a public hearing required? Are these criteria consistently applied? How many public hearings have been held on Petitions? The answers to these questions are important to assessing the completeness of the CSC's record of evidence. The answers are also relevant to assessing subsections (1), (3), (4), (5), (7), and (11).

I am a long time participant in environmental justice issues in our region. I think that the comments submitted by Save the Sound are excellent. For too long, the Siting Council has operated outside of public view meaning that oftentimes communities become aware of new developments after the fact. Informational hearings have been used to help increase pubic participation but again, they occur after the fact.

I think that the most important points submitted by Save the Sound are

- Increase public representation on the Siting Council both environmental advocacy groups and residents of EJ AND distressed communities.
- Consider negative cumulative impacts from proposals in already overburdened communities as an important weighted criteria in their decision making.
- Give preference to alternative sitings that do not further encumber distressed and EJ communities
- Require public disclosure of proposals in the region or town in which they occur that the Siting Council is considering (BEFORE THEY HAVE BEEN DECIDED) and provide a means for the public to comment directly to the Siting Council. Perhaps requiring an informational hearing for new proposals that the company would host in the community would be the easiest way for this to occur. Again, the EJ process does require public informational hearings as part of the EJ process but it occurs AFTER the proposal has been approved by the Siting Council making it much more difficult to affect change. Also, the roster of EJ communities is fluid and the process is designed for EJ communities (and distressed ones? not exactly clear). I think that many towns would like to participate in decision making.

As these changes may increase the demand upon the ability of the Siting Council to function I would support increased support for the council to carry out these changes.

Thank you for the job that you do. I think that CT is so lucky to have you and I wish you well in the upcoming years. CT joins WA state in being a blue bubble for at least a little longer.

As a Right of Way (ROW) landowner who has lived next to transmission lines in Glastonbury for 40 years, I have extensive experience working with the electric utilities with easements on my land (currently Eversource) as well as a working relationship with the Connecticut Siting Council for many years. I applaud the work of the Energy and Technology Committee of the Legislature for making substantial changes to legislation in PA 24-144 regarding operation of the Siting Council, and the efforts of the Connecticut Equity and Environmental Justice Advisory Council in DEEP to provide meaningful feedback on the impact of this legislation in their 2024 Connecticut Siting Council Report.

I appreciate the opportunity to comment on the draft Report but based on the limited time DEEP to finalize this report by 12/31/24 I will focus comments to one specific area that I think is very important and is lacking in the Report. Specifically, **I am concerned that there is no mention of the sub-petition process that has been utilized extensively by electric utilities to get streamlined approvals of major maintenance projects in transmission line ROW's.** This process was used on four different occasions by Eversource to get Siting Council approvals for the replacement of wooden transmission poles in the ROW on my property since 2017.

The report does a good job in Chapter 3 of contrasting the differences between an Application for a Certificate of Environment Compatibility and Public Need and a Petition requesting a Declaratory Ruling that this Certificate is not needed, which basically waves the need for any outside environmental assessment and a public hearing. The report notes that the Petition for Declaratory Ruling process is much easier and quicker to get approval for projects and used much more often,

especially for energy/transmission rulings. The report also notes that the Petition process has more vague environmental review requirements in the legislation than an Application process. However, the sub-petition process is used even more often than the Petition for Declaratory Ruling process as it allows applicants to "piggyback" on a previously approved Petition with the assumption that each sub-petition has the same scope and requirements as the original Petition, and thus allows the Siting Council to "streamline" the process of approval.

In my case, four Petition 1293 sub-petitions were filed by Eversource with the Siting Council for work to replace transmission line poles on my property. Petition 1293 was originally filed with the Siting Council on March 2, 2017, by Eversource requesting a "determination that no Certificate of Environmental Compatibility and Public need is required for all transmission maintenance activities that comply with the updated National Electric Safety Code (NESC) clearance requirements". This Petition was approved by the Siting Council on March 31, exactly 30 days later. On April 7, the State Historic Preservation Office of the Department of Economic and Community Development (DECD) sent a blistering letter to the Siting Council refuting much of the claims by Eversource of not impacting the environment when replacing wooden poles with steel ones based on work already done expanding access roads and building work pads to support the heavy equipment needed to install steel poles. The letter notes that DECD was not able to review this Petition until it was posted on the Siting Council website on April 3rd.

This letter from DECD questioned the legitimacy of the pictures provided by Eversource of what a site looks like after work was completed and included many pictures of recent environmental damage done to install metal poles in ROW's and identified six archeological sites that were also damaged with this methodology. DECD requested that this Petition not be approved, and the Siting Council should visit sites where this work has already been done before taking action on this Petition. Despite this evidence, the Siting Council responded to DECD that Petition 1293 was already approved on March 31, and they believed that promises made by Eversource to protect the environment were sufficient and would continue to be reviewed in any sub-petitions filed.

When I did a white paper about Petition 1293 in May 2019, I found that there were almost 100 1293 sub-petitions filed within 23 months of the March 31, 2017 approval by the Siting Council. Each sub-petition involved the replacement of about 30 sets of poles at a cost of four times more than wooden poles replacement once the cost of additional access roads and work pads is figured in (based on my conversations with the contractors that did the work). Note that the rationale for using steel poles is based on potential woodpecker damage and not due to the changes to National Electric Safety Code that raised the minimum height of transmission wires.

Information on Sub-Petitions is no longer available on the Siting Council website, but Petition 1293 and the correspondence between DECD and the Siting Council is still on the website. When I corresponded with the Siting Council about damage to my property that was caused by building a large access road and work pads to replace wooden poles and invited them to see this damage themselves, they responded that the Siting Council has no jurisdiction or authority to enforce

environmental requirements issued with Petition approvals such as the removal of a work pad and remediation was strictly between the landowner and Eversource.

I understand the need to streamline the regulatory process used by the Siting Council, but **I** strongly believe that the process of approving sub-petitions needs to be documented and assessed for improvements over and above those made for the Petition for Declaratory Ruling process, including the need for the Siting Council to meet the goals of its creation under the rules of the Connecticut Uniform Administrative Procedures Act as documented on page 6 of the Report; "Provide environmental quality standards and criteria for the location, design, construction, and operation of public utility facilities at least as stringent as the federal environmental quality standards and criteria, and technically sufficient to assure the welfare and protection of the people of the state." This would help prevent utility companies from taking advantage of the Petition for Declaratory Ruling process and any subsequent sub-petitions that could result in unneeded damage to the environment and ecology in ROW's.

Thank you for the opportunity to comment on the DEEP Report on the important work of the Connecticut Siting Council. I hope you find my comments constructive.

I reside in Bridgeport CT, the largest city in the State of Connecticut, and the most marginalized community under the jurisdiction of CT DEEP and the Connecticut Siting Council.

The largest urban center in the State of Connecticut, the City of Bridgeport, has been forgotten by our CT DEEP leaders. There is no evidence of the institutionalized practice of environmental justice here in Bridgeport, CT.

We (of the Environmental Justice/Advocacy Communities here in Connecticut) require more and better-quality representation on the CT Sitting Council. This can only be accomplished by expanding funding to more municipal representatives in the state-designated decision-making process.

We need the CSC to create, install and adequately fund a community-interfacing infrastructure e.g. hiring a Community Engagement/Governmental Affairs Director responsible for community outreach.

Here are some additional very specific recommendations:

- Hold public hearings on every petition by default, while retaining the option to "opt-out" of a public hearing upon a vote to do so;
- Grant the CSC express authority to deny permits and petitions for affecting facilities if the CSC determines there are less harmful alternatives.
- Classify solid waste transfer stations, chemical recycling facilities, and related hazardous facilities as "affecting facilities," in recognition of their adverse impact on public health;

Thank you for your service to the citizens of the state of Connecticut and most especially to the forgotten citizens of the city of Bridgeport who are reaching out to you our advocates.

We appreciate the opportunity to review and provide comments on the draft report concerning the Connecticut Siting Council, as required by Public Act 24-144. While the report reflects thoughtful consideration of various aspects of the Council's role and practices, we would like to offer the following observations and recommendations for further improvement.

1. Clarity and Specificity in Recommendations:

Several recommendations in the report are vague and lack enforceable measures.

Clearer language, coupled with actionable steps or metrics for adherence, would ensure the recommendations achieve their intended impact. Specificity is critical to fostering accountability and effective implementation. For example:

a. *Drawing on Agency or Technical Consulting Expertise*

- We strongly support the recommendation to incorporate agency or technical consulting expertise into the CSC application and petition review process, especially given the Council's lack of expertise in electric system design. However, merely suggesting that such input be considered is inadequate. In practice, the CSC has disregarded expert opinions without providing justification, as evidenced during the Docket 516 hearings. In that case, two underground transmission experts, with a combined 100 years of experience, presented testimony directly challenging the utility's claims regarding the cost, timing, and feasibility of undergrounding. Despite this testimony—and without questioning the utility about those discrepancies—the CSC deferred to the utility's statements, offering no evidence or rationale for ignoring the experts' assessments. To prevent such dismissals and ensure that expert input is meaningfully integrated into the decision-making process, a requirement should be instituted mandating that if agency or expert testimony is disregarded, the CSC must provide a detailed, evidence-based justification for its decision.

b. *Public Notice Requirements*

- Enhanced public notice requirements are a critical and welcome recommendation. Providing accurate and timely information about a project's scope and impacts is essential to meaningful public participation. However, the current public notice process falls short in delivering accurate and comprehensive information. For instance, during the Docket 516 application process, the public was misled by notices that characterized the project as a "rebuild to address aging infrastructure". The communication omitted key details, such as the construction of new monopoles—significantly taller than the existing infrastructure atop the railroad catenaries—and the nearly 20 acres of easements that

would be required, largely affecting private property along the relatively short, 7.3-mile project path. This framing led the public to believe the project would simply replace existing infrastructure with minimal impact. To address these deficiencies, public notices must include specific disclosures about elements such as easements, pole heights, vegetation removal, and other visual or sound related impacts. Adding these details would enhance transparency and ensure the public can fully understand the proposed projects and engage in the process.

2. *Economic Considerations:*

While the inclusion of Councils of Government in pre-filing consultations to assess a project's impact on transit-oriented development and other economic development objectives is commendable, the lack of guidelines for assessing the impact of utility easements and other economic factors of utility project proposals is a significant oversight.

a. *Utility Easements -*

Utility easements are often the most invasive aspect of transmission projects. They impose restrictions on property use, reduce property values and local tax revenue, and disrupt homes, businesses, libraries, open spaces, and places of worship. Despite these profound impacts, the Siting Council is not required to assess the necessity or implications of easements proposed as part of utility projects. To address this gap, we recommend establishing explicit criteria for evaluating utility easements. Efforts should prioritize avoiding easements in high-density areas or where the proposed easement acreage constitutes a substantial portion of the project area. Easements should only be pursued as a last resort when no reasonable alternatives exist. By implementing clear guidelines, the Siting Council can prevent unnecessary utility encroachment, reduce property value degradation, and promote equitable land use practices, striking a balance between essential infrastructure development and the rights and interests of affected communities.

b. *Economic Impact Assessment*

- The financial incentives for utilities to prioritize new infrastructure over system upgrades are well-documented. Utilities earn a return on equity of 11–14% for capital projects—costs ultimately passed on to ratepayers. As profit-driven corporations accountable to shareholders, Connecticut's utilities often have priorities that diverge from the broader interests of the state and its communities. It is therefore deeply concerning that the economic impacts of utility project proposals on municipalities are excluded from the decision-making process. Utility projects involving new rights-of-way, noise, health and safety risks, diminished developmental potential, and visual blight, among others, can severely reduce property values and local tax revenue. Such outcomes can have crippling effects on municipalities, undermining their economic stability and growth potential, yet there is currently no requirement to evaluate or consider them during the approval process. To safeguard the long-term well-being of Connecticut's municipalities, we strongly recommend making a comprehensive economic impact assessment a mandatory component of project evaluations.

3. Holistic Infrastructure Planning:

The recommendation to leverage engineering design expertise is valuable, but it does not address the broader need for a cohesive, statewide infrastructure plan. Currently, projects appear to be developed in isolation, resulting in a fragmented approach that could lead to inefficiencies and missed opportunities for synergy. We strongly suggest the creation of a centralized body or framework to define and enforce statewide infrastructure guidelines and standards. This would provide consistency and coherence across utility projects, ensuring that future developments contribute to an integrated and sustainable infrastructure system for Connecticut.

We hope these comments are helpful in refining the draft report and strengthening the recommendations for the Connecticut Siting Council's future operations. Thank you for your consideration of these points, and we look forward to seeing the final report.

Comments received through online survey

The comments to the Draft Connecticut Siting Council (CSC) Report collected through the online survey were the following people:

- Michael Lindsay
- William Gerber
- Laurette Saller
- Bryan Sayles
- Alicea Charamut, Executive Director, Rivers Alliance of Connecticut
- Colin Piteo
- Fred Behringer
- Stan Paleski

Overall impression of the report

- Extensive regulation with extensive multi department inputs that make me reluctant to add additional requirements for the the siting process. I hope there is a weighting system applied to streamline these numerous inputs and make it a workable process
- We appreciate DEEP's work in summarizing the goals and duties of the Siting Council as well as feedback from certain stakeholders. My comments on your DRAFT 2024 CONNECTICUT SITING COUNCIL REPORT ("Report") are based on our real-life experience in the Town of Fairfield, CT. There appears to be a disconnect between several of the goals and duties of the Connecticut Siting Council ("CSC") outlined in your report, and what the Siting Council actually does in practice.
- I have a positive impression of this report especially the recommendations of stakeholders. Also, my personal experience as a lay person with the CSC personnel and the process has been positive with some confusion regarding legal issues.
- "My overall impression of the DRAFT is positive for it's inclusion of the Office of Consumer Council in many of the consultations. The OCC is more likely to bring public concerns to the process BECAUSE they get them when other departments may not. All information is good information and the professionals at OCC act to represent the public's interests. As

opposed to a developers or self serving municipal leaders. Truth and transparency are important.

I also think that DEEP appreciates the heavy, detail oriented workload of the Connecticut Siting Council (CSC). Their appreciation for the CSC shows in a few of the changes made or proposed through this report. I appreciate that DEEP has gone through the effort to gather public input like mine. I hope DEEP and all involved can use some of the feedback to improve transparency. Especially at the municipal, ""pre-application"" phase."

- The focus on making the CSC processes clearer for the public is very much appreciated.
- Thank you for this opportunity to provide our input on behalf of the Connecticut Land Conservation Council. We appreciate the effort that went into the draft CSC report and support the recommendations for improvement. That said, recognizing that the report aims to provide insights into the CSC, we read the report through the lens of the general public, seeking clarity and transparency into this highly complex process.

  P. 1 – Consistency in Terminology: The report should maintain consistent terminology to make sure everything is clear. For example, the term “Certificate of Environmental Compatibility and Public Need” is referred to as both “Certificate” and “Application” throughout the document, sometimes capitalized and sometimes not. It would be helpful to consistently use “Certificate” and “Petition” for the respective application and petition processes as defined in the report."
- I appreciate this report. It is well written and explains a lot. From reading the report my understanding is that most of my concerns are related to legislation, as the CSC must follow the mandates it's given.
- It has not won me over yet.

<u>Comments about the Introduction Chapter</u>

- Introduction page, items 10 and 11, concerning CSC's relationship with municipalities and processes for inclusive public engagement. PLEASE SEE #11, BELOW. Thank you.
- Good.
- Not wild about it it's okay (middle of the road).

<u>Please add your comments about Chapter 1: Siting Council History, Jurisdiction & Responsibilities</u>

- A Fairfield resident looked out his window one day to find United Illuminating (“UI”) contractors marking trees for destruction. He was informed that his backyard was to become home to a massive UI transmission monopole. The resident contacted his State Representative who had also been unaware that UI intended to install massive monopoles along a 7.3 mile stretch just south of the train tracks, through historic properties including Pequot Library, Southport Congregational Church, some of the oldest homes in Fairfield, and historic sections of Bridgeport. This plan (“Plan”), Siting Council Docket Number 516, also included the taking of permanent easements over 19 acres of private and municipal property to the south of the Metro-North tracks.

  No abutting property owners knew about UI’s Plan. Yet, when UI testified in front of the CSC about what it did to notify abutters, the CSC appeared to accept UI’s assertions at

face value and ruled UI had fulfilled its legal obligations. It seems apparent that the CSC is either not equipped, or not inclined, to independently verify an applicant's testimony.

Affected parties, including the Town of Fairfield, scrambled to hire attorneys and petitioned the CSC successfully to be accepted as interveners in the process after the initial deadline. The Fairfield intervenors made strong arguments, with the result that not a single CSC member voted for UI's Plan. Inexplicably however, the CSC deemed it appropriate, and legal, to grant a Certificate allowing United Illuminating to install its monopoles on the north side of the train tracks, a route for which no plan had been designed or filed. The due process that was nearly denied to the south side abutters owing to the applicant's insufficient notification was completely denied to abutters on the north side of the railroad track by the Siting Council itself.

And worse, the CSC approved the new northern route without requiring UI to provide a design for this route, and without requiring it to provide evidence of the environmental, aesthetic, and visual impacts on properties to the north. UI never even identified the properties to the north that would be subject to permanent easements. Incredibly, the CSC granted UI a Certificate without doing any of the statutory balancing of public need vs. environmental impact on properties to the north that PUESA requires before a Certificate can be issued. In a word, regardless of stipulated jurisdiction and responsibilities, this process was broken in practice."

- Re: jurisdiction and responsibilities should include the impact of ancillary activity by electric generation facilities and the impact on energy grid.

  3). Add "residential" to Minimize damage to scenic, historic and recreational values.

- PP. 7-8 – Role of DEEP in Siting

  It would be helpful for the public to better understand the process DEEP follows after being consulted by project proponents. Beyond the Bureau of Natural Resources (BNR) and a review of the Natural Diversity Database, what are the other steps involved in the consultation process with DEEP, as outlined in CGS Section 16-50k?

  In particular, transparency is needed regarding how DEEP determines whether a project will materially affect the status of land as prime farmland or core forest. The process for determining ""no substantial adverse environmental effect"" should be clearly outlined, especially when it comes to solar photovoltaic facilities of 2MW or greater. Developers of smaller facilities should not be able to avoid consultation with BNR, especially if their projects could potentially affect core forest or prime farmland areas. Transparency in these determinations is essential.

  PP. 11-12 – Issuing and Enforcing Certificates

  Before beginning work on facilities under the CSC jurisdiction, an application for a Certificate must be submitted if the facility may have a "substantial adverse environmental effect." While the criteria for evaluation are listed, there is no clear explanation of the process for making this determination. Who is responsible for determining whether a

facility may have a substantial adverse environmental effect? Once this determination is made, what process is followed for evaluating and issuing approvals?

The process for determining substantial environmental effect should also be clarified for Petitions. It is essential to understand the steps involved in making such a determination.

PP. 12-13 – Core Forest and Other Forested Areas

While the effort to add clarity to how DEEP defines core forest is appreciated, this information raises concerns regarding the exclusion of forested areas smaller than 250 acres. Connecticut's forests are highly fragmented, yet many smaller forested areas still hold significant conservation value and provide other benefits. Determining substantial environmental effect should include all forested areas, not just those meeting the statutory definition of core forest. Additionally, urban forests should be considered in the evaluation process, even if they do not meet the ""core forest"" definition.

The report should clarify the evaluation process DEEP follows, including the criteria used to make a finding that there is no material impact. Public input opportunities during DEEP's process for making such determinations should also be clearly outlined.

- This chapter raises the concern that the CSC is not fulfilling its responsibility to promote energy security, a goal set forth by PUESA. Expanding reliance on solar will lead to less energy security - both less reliable generation and more costly electricity (less security for consumers being able to afford electricity). Yes, energy coming out of panels is relatively inexpensive and can be made more reliable - but the overall cost goes up due to added transmission, battery storage, and maintaining other back-up such as with natural gas. These costs are already being seen in electricity bills -mostly in the public benefit portion. Increasing solar increases this - with a relatively small input into overall demand. Solar would have to expand to a much larger area to supply a more meaningful portion of electricity demand, further increasing ancillary costs along with the loss of significant forest and farmland - in direct contradiction to CT goals to preserve such spaces. To the extent that it can, the CTC must apply greater consideration to security and the loss of forest and farmland and limit expansion of solar to areas that are already developed.

  P 12: I think it's time to stop worrying about electromagnetic fields.

  P. 12 -13: The DoAg and DEEP are too permissive in their evaluations. 2 MW of solar is at a minimum 10 acres - how does this not affect farmland or forest???"

- #3 Minimize damage to scenic, historic, and recreational values. This is a laugh after you took East Windsors scenic route and located Ugly Solar project along bit

<u>Please add your comments about Chapter 2: Siting Council Compared to Other States</u>

- It is notable that, compared to other states, Connecticut has the least representation from agencies. CT DEEP should have at least two representatives - one from the Energy side and one from the Environmental Quality Side.
- I appreciate the effort that CT has made to create a CSC and to provide diverse membership

- Ct. Sitting Council has had no regard for Towns jurisdictions or economic devolvement plans until possibly now. You can put all the charts together and the process still feels tainted. Smoke and mirrors, a feel-good thing

Please add your comments about Chapter 3: Overview of Applications and Petitions

- Boy there is a lot more approved than denied. But in all fairness, this report doesn't provide metrics on the scope and size of these projects.

Please add your comments about Chapter 4: Application for a Certificate of Environmental Compatibility and Public Need

- "On the issue of "public need," the Report (p. 37) identifies two types of projects that could benefit from greater input of other agencies: i) transmission line upgrades, and ii) "asset condition" projects "to replace transmission infrastructure."

  Comment: The Report overlooks the way in which the Siting Council has allowed the utilities to abuse "asset condition" projects by also seeking transmission line upgrades, rather than simply replacements. In Fairfield Docket No. 516, the CSC relied on UI's claim that the asset condition of the catenary structures required the attached transmission line to be replaced. But UI did not propose a mere replacement project. It took advantage of the alleged need for moving the transmission line based on asset condition by also proposing a massive upgrade in the capacity of the new lines. UI admitted that its 10-year load forecasts projected no load growth. Incredibly, the Council approved both the replacement of the line and a massive upgrade to the line's capacity, which therefore necessitated larger conductors, taller monopoles, and takings of easements over private and municipal property – all with severe environmental impact. This should be unacceptable to DEEP.

  Our suggestion: DEEP must educate the Siting Council and require that for any application based solely on "asset condition," where there is no projected load growth, the Council should approve only a replacement of that line and not an unsubstantiated upgrade to its capacity.

- Process Timeline- Certificate of Environmental Compatibility and Public Need.

  In the last paragraph on page 31, the rule states.. "Additionally, a municipality may conduct the public hearings and meetings it deems necessary to provide the applicant with municipal recommendations about the proposed project, although only if it chooses to do so during the pre-filing consultation.."

  Why are public hearings optional? If only for elected or appointed representatives why so? For example, Waterford's municipal leaders never informed residents of an ongoing petition by Dominion Energy Nuclear Connecticut (Petition 1586). The only way we found out about it was to conduct our own fact finding, grassroots meeting attended by 68 residents. Working together, we discovered Dominion's petition three weeks after it was filed leaving only a week before the public comment deadline. Thankfully, CSC Executive Director Melanie Bachman granted an extension. Unless the definition is strengthened to include the word "mandatory," then both the CSC and residents will be subjected to the same local leadership shenanigans that we encountered. Now, I do understand that the

petition was not for a Certificate but, the lack of transparency by local officials was damning and a disservice to Waterford's residents. It also damaged locals trust in the process.

Similarly, the process timeline for a Declaratory Ruling (Petition) has features that undermine transparency. Per page 32, ..." Unlike for the certificate process, a petition does not require a pre-filing consultation with municipal leaders and state legislators within 30 days after receipt of a petition for a declaratory ruling, the council will also provide notice to all persons whoever requested notice. The notice provided by the council includes contact information for the council, a timeline for public involvement and the date, place, and time for any scheduled field review of the proposed project." While this paragraph mentions a timeline for public involvement I believe it is in regard to whether or not the CSC decides to have a public meeting not an automatic public meeting. It is optional. From our shared experience with PE1586, it was only transparent when residents were able to follow the process through the CSC web site. Waterford's First Selectman flatly refused to conduct a public questions and answers information meeting even though he was petitioned to do so by hundreds of residents. Optional public hearing by CSC? Okay, but if the State wants there to be greater transparency then the rule should be changed to encourage public participation to raise awareness. Leaving transparency to the whim of municipal leaders is a disservice to everyone. As a taxpayer funding the good work of the CSC I object to there not being mandatory public notice including means for disseminating the information as what is outlined in "Public Hearings related to Applications or Petitions" found on page 33. (Public signage posted in the vicinity of the petition site that would be visible to the public, public notice in local newspapers, etc)

From our experience in Waterford we learned that local municipal leaders, trade unions and rich corporations manipulated time and information in an attempt to avoid transparency. Irresponsibly risking our energy security to obtain their single-minded objectives. It is outrageous that all of the years of critical thinking and decision making is able to be undermined because municipal leaders are not held accountable for transparency. That MUST end for the good of us all.

- The title here is somewhat Orwellian: Environmental Compatibility - strikes me as a little greenwashing. Suggest replacing "Compatibility" with "Impact" or something along that line. I don't see how the objects being discussed are compatible with the environment.
- I hate to sound negative but the (Environmental Compatibility) part doesn't hold a lot of water with me. Example Long Ear Brown Bat: there was a nice population in the Gravel Pit Solar area. I cannot find any records of any study being done on their disturbance. That is concerning, when I have watched our (Wetlands Agency) go to great lengths to ensure compatibly and I'm not seeing it with the CSC. CSC failing to address the close proximity to major aquifer. Living in close proximity and see the Wildlife patterns have changed drastically with no mitigation. The construction oversite portion is a farce, during the Gravel Pit Solar Project. I was in contact with CSC staff and the best that could be provided me was a (Draft of the Construction Oversight). But the sad part is the project was well under way

Please add your comments about Chapter 5: Petition for a Declaratory Ruling

- "Process step 3: CSC should hold public hearings upon request for all petitions with timely notifications to the public.

  Municipal governments also should be required, upon request, as part of the petition process, to hold public hearings with opportunities to question, comment and raise concerns about the petition.

- Concerning Dominion Energy Nuclear Connecticut's (DENC) petition 1586, let's face it, it is a data center Host Fee Agreement with Waterford that is the driver of the petition NOT a DENC proposal to build a new reactor. Nor is it a petition to build or expand for other more benign property use. Credit to the CSC for asking detailed questions. The vagueness and outright exclusion of information by the applicant was an obvious attempt to conceal the truth. The denial was made ""without prejudice"" and left to loom over the extensive residential neighborhoods surrounding Millstone Point including those in East Lyme. Please consider implementing DEADLINES for petitioners so this doesn't happen. Consider imposing a quality of information standard for completeness, accuracy, and transparency to prevent the kind of stringing along as experienced with petition 1586. I realize it was unintended but, a ruling without prejudice rewards DENC for their intentionally shoddy answers!

- 1) Petitions should undergo a process if not similar to Certificates, then something much closer to it to provide more information and opportunity for comment.

  An significant concern with regard to solar farms: The CSC should have jurisdiction when solar farms under 2 MW are being proposed. When under 2 MW projects are adjacent or nearby, they should be treated as greater than 2 MW and require a decision. I'm concerned about this loophole.

  2) p 27: Seems to say that solar is not able to go through a petition unless sited on land ""where an electricity generation facility has been in operation prior to July 1, 2004"". My perceptions is declaratory rulings have allowed solar on forest and farmland. My apologies if I'm not reading this correctly."

- The "Optional Public Hearing" should be stricken and made say "Permeant Public Hearing"

Please add your comments about Chapter 6: Siting Council Project Oversight Post-Approval

- Concerning fuel cells, what is the definition of substantial adverse environmental effect? When would a fuel cell that uses Natural Gas as a feedstock NOT have an adverse environmental effect? Especially when a 65MW threshold seems outdated and arbitrary as NEW, smaller fuel cells are MODULAR and can be daisy chained to customize power generation. The 65MW threshold was likely made before the significant design improvements that exist today. Incremental, modular designs that are much smaller but equally impactful as data centers will burn through natural gas as feed stock. It would be easy to circumvent the rule of 65MW, 5 or 10MW at a time! If we understand that the additive results will cause harm then it stands to reason that nearly EVERY fuel cell will pollute. So, lower the threshold to meet the advancements in fuel cell technology. The 65MW is too old a standard! We do want to monitor fossil fuel use don’t we?! Lastly,

consider modifying the application fee(s) to align more fairly with "modular" incremental project(s).

- I hope the CSC has enough resources for this important part of their role.
- In the lower section of my comments, I talk about Construction Oversight. During the Gravel Pit Solar, all I could see was very little post-approval phase. Any reaction was knee jerk after complaints had been voiced. Example equipment being brough in during the dead of night, work site work being conducted out of proposed hours, extreme size equipment being brough in outside of proposed times and being told that it never occurred.

Please add your comments about Chapter 7: Opportunities for Public Participation in Siting Council Work

- Residents of Fairfield nearly missed an opportunity to participate in the hearings on Docket Number 516. Neither affected residents nor the district's State Representative had been unaware that UI intended to install massive monopoles along a 7.3 mile stretch just south of the train tracks, through historic properties including Pequot Library, Southport Congregational Church, some of the oldest homes in Fairfield, and historic sections of Bridgeport. This plan ("Plan") also included the taking of permanent easements over 19 acres of private and municipal property to the south of the Metro-North tracks. UI testified in front of the CSC about what it did to notify abutters and the CSC appeared to accept UI's assertions at face value, ruling that UI had fulfilled its legal obligations. Affected parties, including the Town of Fairfield, scrambled to hire attorneys and petitioned the CSC successfully to be accepted as interveners in the process after the initial deadline. The Fairfield intervenors, at a significant cost, made strong arguments, with the result that not a single CSC member voted for UI's Plan. Inexplicably however, the CSC deemed it appropriate, and legal, to grant a Certificate allowing United Illuminating to install its monopoles on the north side of the train tracks, a route for which no plan had been designed or filed. The due process (including public participation) that was nearly denied to the south-side abutters owing to the applicant's insufficient notification was completely denied to abutters on the north side of the railroad track by the Siting Council itself. Put another way, the CSC sanctioned United Illuminating's lack of sufficient public notice and then, itself, denied the public opportunities for participation.
- Improve stakeholders' on-line participation, information and communication via simple tutorials and menus on the CSC webpage. For example, simplifying the intervenor process, adding links/reports from DEEP, PURA other state agencies regarding the petition.
- Need more opportunities for public participation and better notification of events.
- I applaud seeing the "Public Participation and Meeting with Municipality of Jurisdiction"

Please add your comments about Chapter 8: Public Concerns – Noise, Visual, and Community Impacts

- I am viewing the current siting process with respect to the individual, or singular project. My comments refer to multiple Solar Field projects in particular. Meaning from my view point in example; A large solar project in East Windsor on 450 acres was approved and is in operation a few miles from me.

Another project is in operation slightly to the Southwest of me within a mile or 2 on Middle Road, in Ellington. An additional solar field has been approved on Middle Road again a couple of miles to the East of me.

Due to this rapid, recent proliferation of solar projects, I feel the cumulative effects on this micro geographical region are extensive and beyond the weight of what one country ""block"" should bear.

So my request for modification of the siting process would include the total consideration for all projects that impact a local geographical area; meaning, spatial geographical distribution of solar fields, such as, if a solar project already existed in the area proposed for a new solar farm, the existence of the solar field in operation would ""bump"" the proposed location of new solar field out to an area farther from the solar field already in operation.

How this would be done fairly, I do not know, due to the rights of property owners. I could imagine a lottery system in certain geographical areas that would allow only the ""winners"" to develop solar fields. Over time this approach could distribute the solar fields over larger geographical areas, shifting the ""burden"" to all, resulting in less localized more dramatic negative impacts.

But also, in summary the siting process is already ""extensive"", so I regret adding more regulation to it, but if added, maybe something else in the siting process could be streamlined."

- PUESA requires that there be a representative of DEEP on the Siting Council for good reason, since the statute was intended to be an environmental protection law. And yet, as we just saw in Docket No. 516, the Council did not take seriously the environmental oversight that PUESA requires. The process is broken.
- Regulate noise, visual and other community impacts of any ancillary activity or use of an electrical generating facility. Require comprehensive environmental assessment of any ancillary activity or use such as (behind the meter, collocated) data centers.
- "Page 35, Chapter 8: Public Concerns – Noise

  Since it serves their purpose, the town of Waterford keeps slapping a vague standard on noise by relying too much on “no greater than existing ambient noise..” Existing ambient noise is all over the place and therefore, is NOT a standard. In fact, Waterford's noise ordinance is less restrictive than most towns. Even then, the Chief of Police says it is unenforceable as it is written. How lazy is that?

  Where is the State of Connecticut in all of this? Why is Waterford or any municipality allowed to subject it's residents to UNENFORCEABLE standards that only serve the whims of local officials and developers? Ruinous to quality of life. DEEP needs to do something about it. One need only bend an ear to hear the blatant, disruptive noise being emitted by lawless automobile drivers to realize that government isn't doing their job to curb and eliminate the problem. The impacts to our communities and natural environment are horrendous and being ignored by those in power to help.

- P. 36 – Filing Guides for Certificates and Petitions

  The requirement for a comprehensive environmental assessment is important, especially for those concerned with community environmental impacts. However, the discussion of this requirement appears to be an afterthought in this chapter. In addition to referring readers to the filing guides (which many may find complicated and confusing), the report should include a summary of this requirement, explaining the process for evaluating the assessment.

  Additionally, while we support the recommendations to enhance public input, the report should also provide a recommendation for further insight and some opportunity for public input during the process by which DEEP issues its letter of no material effect. At a minimum, the report should detail DEEP's process, the criteria used in its evaluation, and the role of the comprehensive environmental assessment in this process."

- The CSC should place much more emphasis on the what is conveyed in the final paragraph of this chapter when considering solar. In essence factoring environmental impact and the overlooked problems with solar.

- This is a good start but, No One has looked at "EMI" Issues or Radar attenuation near major airports. Also having spent quite a few hours to have Deveopment rights obtained to keep open space for farming. Then to see adjacent farmland turned to useless Solar, blows my mind. You can't eat solar, you can't milk it either.

Please add your comments about Chapter 9: Recommendations from Stakeholders

- Technical Assistance. On pp. 37-38, there is a recommendation to utilize "technical assistance from an outside consultant," or with PURA, on certain issues.

  Comment: There are many other areas where there is ineffective oversight by the Siting Council, resulting in improper reliance by the CSC solely on the utilities' opinions. The primary example is determination of "public need." The Council lacks the expertise to competently evaluate whether there is a public need for many of these projects.

  Our suggestion: Require that an independent third-party expert perform a technical review of any proposed application and an assessment as to whether there is a "public need" for any transmission line project – before an application is filed. This would not replace the Siting Council's duty to balance need versus environmental impact, but would serve as a threshold review of need before an application is permitted to be filed. This should be funded by the Applicant.

  Cost. The Report (p. 38) identifies that the Siting Council has a responsibility to investigate the costs of overhead and underground alternatives every 5 years.

  Comment: The CSC did perform this investigation (2022 Connecticut Siting Council Life-cycle Cost Analysis of Overhead and Underground Electric Transmission Lines) which concluded a 115-kV underground mile costs about $20.8 million. United Illuminating, in its Fairfield application provided an outrageously inflated estimate for a 115-kV underground alternative- more than $100 million per mile! The Siting Council ignored the absurdity of UI's inflated estimates, clearing a path for UI to reject a viable underground alternative. In

other words, while the CSC did fulfill its obligation to investigate the costs of underground alternatives prior to Docket No. 516, it subsequently relegated its own report to the trash bin. This should be unacceptable to DEEP.

Suggestion: Require that an independent third-party review the costs of a proposed project and all alternative proposals, and attest to the accuracy of the costs – before an application is filed. This should be funded by the applicant.

Valuation. The Council failed to require the applicant to properly identify the costs of proposed easements in the calculation of the cost of overhead transmission lines.

Comment: In the Fairfield Docket No. 516, UI provided "high-level" estimates of the costs to acquire easements over more than 19 acres over private and public property. The Siting Council did not require UI to provide appraisals for its estimates. Instead, the Town bore the burden of obtaining appraisals, which proved UI significantly lowballed this expense. The Council chose to ignore the Town's appraisers and instead relied on UI's unsubstantiated estimates. By doing so, the Council sanctioned UI's undervaluing of the costs of an overhead transmission line. This should be unacceptable to DEEP.

Suggestion: In any application that would necessitate new easements, require an independent third-party appraiser to value the cost of the easements/takings – before an application is filed. This should be funded by the applicant.

The overall theme of our comments is as follows: While the CT Siting Council may have positive and well-described goals and duties, it does not execute its responsibilities in a way that achieves those goals and duties. It acts arbitrarily, even counter to its own research, and does so with impunity. As a result there is a failure of meaningful oversight of the utilities, and the CSC does little more than rubber stamp the utilities' applications. "

- I support most of these excellent recommendations. However, the opt out option for municipalities to avoid public hearings should be deleted.

  I believe ordinary citizens have a right to information that is clear and understandable.

  My local government, despite many citizen petitions and requests, declined to hold a public hearing to provide information or answer questions about an extremely large and impactful facility connected to the nuclear power plant.

- I am grateful for the office of the CSC. I trust their judgement and diligence in rendering their decisions. I am though, asking DEEP to consider changes to the initial phase of "pre application" processes for both Certificate and Declaratory rulings to establish transparency (for local residents) about the intentions of an applicant and do so with ample time for the public to become better informed. (SEE 11 & 12 ABOVE)

  I also ask that the CSC implement rules to prevent foot dragging, delaying, deflecting and confusing people only to reward that behavior with open-ended decisions. (SEE #12, ABOVE)

- A recommendation that is missing is to increase representation of DEEP. As suggested earlier, DEEP should have at least one rep from Energy and one rep from Environmental Quality. In addition, the section that address's agency expertise stresses only energy

expertise from DEEP. The RFP and selection process for large-scale solar facilities lacks incentives for siting on disturbed land and still strongly favors cost as a primary factor for selection. Until this is rectified, impacts on environmental quality should be more closely examined in the CSC process.

Rivers Alliance supports all of the recommendations for transparency and public engagement. CSC processes are nearly impossible for the average person to engage. Yes! Please provide flow charts and pictures to help us understand! Allowing the public to provide comments without having to register 24 hours in advance is essential. I would also recommend that there be an opportunity for public comment at the end as well as beginning.

We also strongly support ""Opt out vs Opt in"" and restoring field reviews.

- P. 40 – Criteria Used by the CSC in Evaluating Applications

  In line with previous comments, more work is needed to improve transparency regarding the criteria used by the CSC and DEEP when evaluating project impacts. Clearer information about how these evaluations are conducted will ensure greater public understanding and confidence in the siting process."

- Aligned with most. One to point out is relying on expertise. I am very sympathetic to the complexity of this issue and the legislative constraints. Please let experts and data help drive decisions - particularly with regard to what we can truly expect from various energy sources (for example consider capacity factors) and careful assessments of tradeoffs and total system costs.

- I think it needs to have more accountability to keep cost down to the rate payers of the state of Conn. and from my understanding the power from these projects is being shipped out of State. If this is true, there should be some guard rails put in place, so an entity that makes money off of our land and so the power does stay within the community that is hosting it.

<u>Please add your comments about any of the Appendices</u>

- "Re: Appendix 19 - Connecticut's Climate Goals and Solar Siting

  If Connecticut continues to look solely at reduction in emissions in terms of climate goals, we will continue to lose resources and natural processes necessary for climate mitigation and adaptation. We must also ensure that siting of clean energy does not adversely impact high-quality cold water habitat that we are losing at a fast pace due to land conversion, that our drinking water sources are not impacted by large-scale projects, and we are not further fragmenting habitat by converting natural lands. We need our open space and forested lands (not just core forests) to absorb 1,000 year floods.

  When finalizing the report, I strongly urge you to look to other climate goals aside from meeting carbon reduction that exists in the GC3 reports."

- Thank you for the details.

Connecticut Council on Soil and Water Conservation
24 Hyde Ave. Vernon CT 06066
203-424-8469 ctcouncilswc@gmail.com

Denise Savageau
Chair

Lilian Ruiz
Executive Director

December 12, 2024

Commissioner Katie Dykes
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

Subject: Connecticut Siting Council (CSC) Review

Dear Commissioner Dykes,

On behalf of the Council on Soil and Water Conservation, we are submitting the following comments and recommendations on the Draft 2024 CT Siting Council Report. The Council has been directly involved in the STEPS for Solar Development stakeholder meetings and submitted comments on July 26, 2021. The Council is also on the Governor's Council on Climate (GC3) with many of its members active participants in its subgroups. We recognize the important ecosystem services provided by our working and natural lands that are necessary to both mitigate and adapt to climate change and acknowledge the imperative need for expansion of renewable energy.

As such, the Council aims to make recommendations that enhance the Siting Council's alignment with sustainable energy goals while protecting water resources, preserving local food systems, ensuring environmental and social equity, and balancing economic considerations. The following recommendations are offered for your consideration:

1. Strengthen Environmental Considerations

- Include Ecosystem Services in Decision-Making: Integrate the valuation of ecosystem services such as biodiversity preservation, carbon sequestration, and watershed health into CSC decision-making.
- Enhance Forest Protection: Extend protections to all forests, recognizing their critical role in maintaining biodiversity, protection and regulation of water resources, and climate change mitigation.
- Prioritize Source Water Protection: Require early identification and safeguarding of drinking water sources during project planning to prevent long-term impacts.

- Protect Prime and Important Farmland: Avoid large scale solar on prime and important farmland soils.

The Siting Council does not require in its submission documents that source water protection areas be mapped, only APA areas. This is a remarkable oversight that jeopardizes the integrity of our drinking water.

The CT Council on Soil and Water Conservation, in collaboration with UCONN CLEAR and the NRCS has produced a tool that can rank any parcel in the state's drinking water watersheds in terms of its priority for drinking water protection, which can help government agencies determine the environmental impact of solar installations in working and natural lands.

2. Promote Sustainable Energy Siting

- Adopt a Preference Hierarchy: Encourage solar development on degraded lands, rooftops, and parking lots while avoiding prime farmlands, forests, and other environmentally valuable areas.
- Support Distributed Generation: Increase solar projects in urban and Environmental Justice (EJ) communities to enhance equity and minimize energy sprawl.

- Uphold the Governor's Council on Climate Change recommendations to protect forests, wetlands, and soil health, ensuring overall watershed resilience.

3. Foster Modern Energy Infrastructure

- Modernize Grid Planning: Expand planning scope to integrate resilient grid systems, including microgrids and energy storage, while avoiding reliance on outdated infrastructure.

4. Improve Stakeholder Engagement

- Diverse Representation: Include representatives from conservation organizations, agricultural experts, and EJ advocates in CSC decision-making processes.
- Dedicated Focus Groups: Establish focus groups to address agriculture, water resources, and environmental justice comprehensively.
- Cross-Agency Collaboration: Foster coordination with DEEP, the Department of Public Health, and water utilities to comprehensively evaluate and mitigate project impacts.

The CT Council on Soil and Water Conservation is the authority on erosion and sediment control in the state, assisting the DEEP and the conservation districts with technical assistance and outreach programs on stormwater management, nonpoint source pollution control and inland wetlands protection. As such, we must be part of the decision process for solar installations that impact soil and hydrology. The criteria adopted by CSC to evaluate projects from the standpoint of erosion and sediment control needs to address not only stormwater runoff but also impacts on water quality in all projects located in drinking water watersheds.

5. Advance Transparency and Accountability

- Holistic Cost-Benefit Analysis: Assess projects using a comprehensive approach that includes economic externalities and ecosystem service losses, and not the lowest dollar-value option:

    - Consider the impacts to consumers fairly and wholistically by assessing all costs/benefits of a project both short and long term, including economic externalities and the ecosystem services provided by natural and working lands. Ensure that environmental justice communities are not negatively impacted nor left out of the benefits of energy generation/storage including renewable energy.

6. Update Legislative Framework

- Revise Statutory Language: Update statutes such as Sec. 16-50g to broaden economic analyses, explicitly include all drinking water supply watersheds, and promote equitable access to renewable energy benefits.

These reforms aim to align CSC operations with modern environmental standards, support equitable energy transitions, and safeguard Connecticut's environmental and community health.

We trust these recommendations will serve as a constructive foundation for advancing the CSC's mission while addressing the pressing challenges of climate change and sustainability.

Thank you for your leadership and commitment to a resilient and sustainable Connecticut. We are happy to discuss these recommendations further or provide additional information as needed.

Sincerely,

Lilian Ruiz
Executive Director

CONNECTICUT BOTANICAL SOCIETY
P.O Box 9004 • New Haven, CT 06532-0004

December 12, 2024

Dear DEEP Reviewers of the Connecticut Siting Council,

The Connecticut Botanical Society (CBS) appreciates the opportunity to provide input on the draft Department of Energy and Environmental Protection (DEEP) report for the State Legislature regarding Public Act 24-144. We recognize the efforts of the Connecticut Legislature and the Connecticut Siting Council (CSC) to balance the need to provide safe and sustainable power to our citizens while protecting the environment and the unique ecology within utility rights-of-way (ROWs).

The mission of CBS is to increase knowledge of the state's flora, accumulate a permanent botanical record, and promote conservation and public awareness of the state's rich natural heritage. To that end, the CBS Ecology & Conservation Committee focuses on the education of citizens, public officials, and organizations about plant conservation, rare plant populations and critical habitats. **CBS has a long history of working with electrical utility companies to develop sustainable vegetation management strategies that protect the unique ecology in ROWs.** For the last seven years, the CBS Ecology & Conservation Committee has provided guidance on ways to mitigate the destructive impact of large gravel work pads and use of heavy equipment on these areas.

The CBS Ecology & Conservation Committee formally submitted **detailed recommendations to Eversource about modifying current construction and maintenance methodologies to better protect the unique ROW environment**. The Committee also provided recommendations from the Connecticut Invasive Plants Council to reduce the spread of invasive species caused by new practices. Unfortunately, these suggestions **have been largely ignored.** The CBS recommendations, as well as recommendations for ROW landowners to protect the environments within their ROW easements can be found on our website at https://www.ct-botanical-society.org/cbs-right-of-way-documentation/.

Considering the above, CBS would like to comment on the following elements of the DEEP report as presented in Chapter 9 in the order of P.A. 24-144 requirements.

(1) Clarifying jurisdiction and scope of CSC powers, duties, role and responsibilities

CBS agrees that CSC needs to do more to clarify its actions by providing clear environmental quality standards and criteria. As explained in Chapter 1, a major goal in creating the CSC was to "provide environmental quality standards and criteria for the location, design, construction and operation of public utility facilities...". We believe that these standards have not been established and/or are not transparent. Further it is unclear how the CSC determines when/if standards are met. Clear documentation of environmental standards and criteria would go a long way to clarify what is required

by public utilities and what can be expected by the public. It would be useful to also identify DEEP's role in setting, monitoring and enforcing environmental standards and criteria in this report.

(2) The effectiveness of the CSC's structure

The most important role of the CSC is to balance environmental concerns with public need in its rulings on utility projects, whether it is reviewing an Application for a Certificate of Environmental Compatibility and Public Need or a Petition for a Declaratory Ruling to request that no such Certificate is needed. CBS notes that there is presently insufficient expertise on the Siting Council to make sound decisions about the ecological impacts for proposed projects. The original legislation creating the CSC and Public Act 24-144 requires that at least two CSC board members have ecological expertise (in addition to the designee of the Commissioner of DEEP). The CSC should have adequate ecological competency within its ranks so that it is not dependent on the expertise provided by utility companies to inform decisions about environmental compatibility.

(3) Processes for issuing a Certificate of Environmental Compatibility and Public Need or approving a petition for a Declaratory Ruling

CBS believes that public hearings should be required for Petitions for Declaratory Rulings to give the public an opportunity for input on proposed utility work. The public hearing process should only be bypassed if CSC provides written rationale for not having a public hearing (refer back to setting clear environmental quality standards and criteria). This would not require legislative action and would restore the public's confidence in the review process.

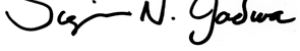
CBS notes that the report does not provide any detail on the sub-petition process used by electric utilities regarding the need for a Certificate of Environmental Compatibility and Public Need. CBS feels that the current sub-petition process results in minimal review by the CSC and the assumption that the scope and impact of a sub-petition is the same as the original petition being referenced. Further, the conditions under which a declaratory ruling is made in a parent petition are not always outlined in a sub-petition. We think this process is not transparent and depends too much on the utility's assessment of a project's scope and impacts.

(4) The CSC's oversight of completed projects.

As the FairwindCT, Inc. v. CSC case determined that CSC has authority to attach conditions to declaratory rulings in addition to its enforcement authorities associated with Certificates, CBS believes that the CSC or another authority should be required to ensure that conditions set in declaratory rulings are realized. We recognize this may require legislative clarification.

Thank you for the opportunity to comment on this important report and legislation.

Sincerely,



Hayley Kolding, MS Plant Biology
President, Connecticut Botanical Society
connecticutbotanicalsociety@gmail.com

Sigrun N. Gadwa, MS Plant Ecology
Chair, CBS Ecology & Conservation Committee
sigrun.n.gadwa@gmail.com

Comments
Elizabeth Gara
Connecticut Water Works Association (CWWA)
December 13, 2024

RE: Public Act 24-144 – Connecticut Siting Council Report

The Connecticut Water Works Association (CWWA), which represents municipal, private, and regional water companies throughout Connecticut, appreciates the opportunity to comment on the state Department of Energy & Environmental Protection's (DEEP) draft report regarding the Connecticut Siting Council activities.

CWWA urges DEEP to incorporate issues and recommendations relating to the protection of drinking water sources in the report.

Source water protection is critical to protecting the quality and availability of public water supplies to meet the state's public health, safety, and economic development needs. Forest land is a vital component of source water protection efforts because they act as a natural filter intercepting precipitation, promoting water infiltration, regulating stream flows, and reducing stormwater runoff.

Recognizing the importance of source water protection, anyone pursuing development, including minor activities, on water company-owned public water supply watershed and Aquifer Protection Area (APA) lands must obtain approval for a Water Company Lands Permit from the state Department of Public Health to ensure that activities do not compromise water quality and/or quantity in any way.

Surprisingly, however, no such approval is required for activities on watershed lands that are not owned by the water company. Water utilities are required to be apprised of proposed developments on non-water company owned watershed lands before local land use commissions to ensure that they can provide input on how the proposed project may impact water quality and quantity. This has ensured that the impact on water quality and quantity is appropriately considered when decisions are rendered.

Similarly, we believe the Connecticut Siting Council should be required to perform an environmental assessment that fully considers the impact of a proposed solar installation on the public water supply watershed, including the extent to which the project may impair water quality and/or quantity. The process should also require input by the affected water utility and the Connecticut Department of Public Health. This would be consistent with other state laws and regulations aimed at protecting drinking water quality and availability.

It is important to note that CWWA supports efforts to encourage and support the use of renewable energy facilities to improve energy efficiency and reduce carbon emissions. Treating and distributing public water supplies is very energy intensive and many water utilities have turned to renewable energy in an effort to control costs, promote water conservation, and maintain affordable customer rates. This includes utilizing solar installations, wind power applications, energy efficient lighting, and participating in power purchase agreements, the state's Renewable Energy Credit (ZREC) program and other energy efficient programs.

However, renewable energy projects, including solar installations, should not be permitted in public water supply watersheds if they may compromise the integrity and quality of Connecticut's public water supplies. Given the absence of adequate environmental assessment, solar installations may raise significant concerns that water quality and quantity may be impaired due to: 1) the clearcutting of forestland; 2) disturbance of wetlands and steep slopes; 3) erosion and sedimentation during construction; 4) potential contamination concerns resulting from servicing and refueling of construction machinery and vehicles and storage of fuel within the watershed; and 5) lack of adequate inspection requirements to address potential water quality impairments.

Thank you for your consideration.

December 13, 2024

Connecticut Department of Energy & Environmental Protection
Bureau of Energy
79 Elm Street
Hartford, CT 06106
Sent via Email

Re: Public Act 24-144 – CT Siting Council Report

The Connecticut Council of Small Towns (COST), which represents 115 small towns throughout Connecticut, appreciates the opportunity to comment on the draft report on the Connecticut Siting Council (CSC). In particular, COST would like to focus on issues relating to the impact of CSC decisions on many of the state's rural communities.

As the report acknowledges, Public Act 24-144 includes provisions expanding the role of the affected municipality in the siting process by 1) ensuring that an applicant exercise good faith in meeting with the legislative body of the municipality and each legislator in the affected municipality; 2) increasing the municipal participation fee for Certificates to better align with current costs; and 3) municipalities prevailing in any judicial review of an order issued on an application to be awarded reasonable attorneys' fees and costs.

PA 24-144 also provides greater consideration to property owners, including simplifying the process for obtaining intervenor status, requiring notification to abutting landowners, and evaluating potential noise levels.

These changes and others incorporated in PA 24-144 recognize that the CSC process may impose significant burdens on communities and/or natural resources. Although we recognize the importance of the CSC process in advancing the state's energy goals, COST remains concerned that the CSC is approving several facilities in a handful of towns which is placing a disproportionate burden on these communities. ***To address this, COST recommends that the CSC be required to consider the number of facilities within a municipality, the size of the municipality, and limit the approval of any additional facilities accordingly.***

In addition, the report should include additional recommendations to strengthen the opportunity for input from municipalities and other stakeholders to ensure that the CSC fully considers the potential impact of proposed facilities on wetlands, core forests, and wildlife habitats.

For example, a proposed 9.9 megawatt solar field in North Stonington would have required the clear cutting of 44 acres of forest and negatively impacted wetlands. The proposal was rejected by the CT Siting Council only after the resignation of one of its members resulted in a split vote.

Although the project was later scaled back, residents continue to have concerns regarding the impact of the solar farm on the area's wetlands.

In addition, COST supports additions to the CSC Report relative to the impact of the siting of renewable energy facilities on public water supply watershed land.

Protecting watershed lands is a critical component of source water protection efforts. Given the importance of protecting the quality and availability of the state's drinking water supplies, the state Department of Public Health require anyone seeking to perform certain activities on water company-owned public water supply watershed and Aquifer Protection Area (APA) lands to obtain a permit to determine whether the proposed activities may compromise water quality and/or quantity. Unfortunately, these protections are not extended to watershed lands not owned by the water company.

Accordingly, COST recommends that the Connecticut Siting Council be required to perform an environmental assessment to fully consider the impact of a proposed renewable energy facility, including solar PV systems, on the public water supply watershed.

The draft CSC Report notes that "Connecticut appears to be the only state where an applicant is statutorily required to use good faith efforts to meet with multiple levels of government representatives prior to the application being filed." COST appreciates that Connecticut recognizes the importance of partnering with other levels of government in making decisions that may have significant impact on other entities.

The CSC Report further provides information on the statutory guidelines of what the siting body must consider in evaluating a project. This information is valuable in determining whether Connecticut could expand on the criteria required to be considered to better protect the state's natural resources. COST urges DEEP to reflect on whether some of guidelines from other states would prove beneficial in providing greater balance between the need to meet the state's renewable energy goals and the need to protect core forests, wetlands, watershed lands, and wildlife habitats.

Thank you for the opportunity to comment.

Very truly yours,

Betsy Gara

Betsy Gara
Executive Director
Tel. 860-841-7350/bgara@ctcost.org

COST is an advocacy organization committed to giving small towns a strong voice in the legislative process. COST champions the major policy needs and concerns of Connecticut's suburban and rural towns.

Save the Sound®
Action for our region's environment.

December 13, 2024

Via Email (DEEP.ERSI@ct.gov)

Connecticut Department of Energy & Environmental Protection

Re: Comments on the Draft CSC Report

Save the Sound is a nonprofit organization representing 4,400 member households and 19,000 activists throughout Connecticut and the Long Island Sound region. Our mission is to protect and improve the region's land, air, and water. We use legal and scientific expertise and bring communities together to achieve results that benefit our environment for current and future generations.

On behalf of Save the Sound, we respectfully submit the following comments on the Draft Connecticut Siting Council ("CSC") Report, prepared pursuant to Sec. 12 of Public Act 24-144. Please note that these comments generally follow the structure of the Draft Report, with any policy recommendations for potential inclusion in Chapter 9 of the CSC Report listed in blue font in respective sections below.

Chapter 1: Siting Council History, Jurisdiction & Responsibilities

Role of Municipalities

Chapter One of the Draft Report provides a very clear and comprehensive summary of the role of other state agencies in the siting process.[1] However, it does not describe the role of municipalities in the application process. While this information is provided later in the Draft Report, Save the Sound respectfully submits that a summary of the municipalities' role in Chapter One would help clarify the CSC's jurisdiction and responsibilities.

Member Composition

As the Draft Report highlights, the CSC has strong public representation, relative to other New England states.[2] However, there is no requirement that the CSC's public members represent communities that have been historically marginalized. Because representation of marginalized communities at the decision-making table promotes both procedural and distributive justice, we urge DEEP to further explore how the CSC could be restructured to better represent marginalized communities.

[1] Draft CSC Report at 7-10.
[2] *Id.* at 11.

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Policy Recommendation: *Restructure the CSC in a way that reflects a provision within Executive Order 21-3 that formed Connecticut's Equity and Environmental Justice Advisory Council within DEEP.*[3]

Duties

The Draft Report lists the issuance of certificates and approvals as a duty of the CSC.[4] However, this section does not discuss the CSC's authority or, in some cases, obligation to deny, modify, or consider alternatives for projects that are presented to the CSC via petition or application. This omission makes it appear that the CSC's duty is merely to approve projects, when in fact, the CSC also has the discretion and duty to deny and modify projects, when appropriate.[5]

The Public Utility Environmental Standards Act provides that the CSC shall approve by declaratory ruling certain projects only if the council does not find a substantial adverse environmental effect.[6] If there will be a substantial adverse environmental effect, a certificate of environmental compatibility and public need is required.[7]

In a certification proceeding, the CSC can grant, deny, or grant an application "upon such terms, conditions, limitations, or modifications of the construction or operation of the facility as the council may deem appropriate."[8] However, it cannot grant a certificate, "either as proposed or as modified by the council," unless it determines (among other things) that a public need for the facility exists, and that the adverse effects or conflicts are "not sufficient reason to deny the application."[9]

These provisions give the CSC authority not to merely approve petitions and applications, but to deny or condition the approval of a project to minimize their impact, when appropriate. This is a critical duty of the CSC. Save the Sound respectfully submits that the Draft Report should discuss this as well in Chapter One.

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[3] EO 21-3 authorizes the Commissioner of DEEP to appoint members of the CEEJAC, including at a minimum, the following non-agency members:

- five (5) representatives of Environmental Justice Communities, which for purposes of this order shall be defined as members of communities of color, members or representatives of low-income communities, representatives of community-based organizations, or academics with knowledge about or experience in environmental justice, climate change, racial inequity, or any other area determined by the Commissioner to be of value to the CEEJAC; and
- three (3) representatives of Connecticut-based environmental advocacy organizations.

[4] Draft CSC Report at 11-12.

[5] *See* Conn. Gen. Stat. § 16-50p(a)(1) ("In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate); Conn. Gen. Stat. § 16-50k(a) (the council shall "approve by declaratory ruling [the construction of certain facilities]. . . *unless* the council finds a substantial adverse environmental effect . . .") (emphasis added).

[6] Conn. Gen. Stat. 16-50k(a).

[7] *Id.*

[8] Conn. Gen. Stat. § 16-50p(a)(1).

[9] Conn. Gen. Stat. § 16-50p(a)(3).

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Consideration of Core Forests

The Draft Report notes that DEEP must provide written assurance that solar photovoltaic facilities with a capacity of two or more megawatts located on a "core forest" would not "materially affect the land's status as core forest."[10] It further points out that DEEP's "finding of no material impact . . . is based on a map that only includes continuous blocks of forest that are approximately *250 or more acres*"—a significantly larger tract than the minimum "core forest" tract defined by statute (300 feet).[11] In sum, DEEP does not provide assurance for facilities located on a core forest smaller than 250 acres (referred to here as "small core forests").[12]

This approach may have considerable consequences. Small core forests make up nearly a third of the core forests in Connecticut.[13] As DEEP has noted in its Forest Action Plan, these forests "have great value in terms of resiliency, carbon storage and sequestration, habitat, and forest management," and "the importance of these small parcels and their effect . . . should not be overlooked."[14] Industrial development, including solar array development, exerts significant pressure of conversion of forestland in Connecticut.[15] Such conversion and fragmentation are the "greatest threats to species that use forestland," and they can also have grave impacts on resiliency and carbon storage.[16]

Connecticut CEQ's 2023 Annual Report has found that "total core forest area has declined by more than 15 percent over the last 35 years."[17] In this time, Connecticut has lost 4% of its small core forests.[18] While Save the Sound understands the value of solar energy and strongly supports its development in the state, this development should not cost the preservation of core forests in Connecticut.

Considering the value and vulnerability of small core forests, Save the Sound urges DEEP to explain, in the Draft Report, why DEEP relies on the threshold of 250 acres and the implications of its approach. For instance, it would be helpful to know how many projects DEEP considers as potentially affecting core forest, how many it would consider if it relied on a broader definition of core forest, and how many acres of core forest have been impacted by the siting of facilities over the years.

> ***Policy Recommendation:*** *Require an evaluation of the impact of solar photovoltaic facilities on small core forests.*

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[10] Draft CSC Report at 12-13.
[11] *See* Conn. Gen. Stat. § 16a-3k (defining a "core forest" as "unfragmented forest land that is three hundred feet or greater from the boundary between forest land and nonforest land").
[12] Draft CSC Report at 13. Connecticut's Forest Action Plan refers to core forests under 250 acres as "small core forests." DEEP, 2020 Forest Action Plan at 108.
[13] DEEP, 2020 Forest Action Plan at 18-19 (small core forests total almost 300,000 acres in Connecticut, while there are approximately 950,000 acres of core forest in the state).
[14] *Id.* at 18, 62.
[15] *Id.* at 104.
[16] *Id.* at 24.
[17] CEQ, Environmental Quality in Connecticut, 2023 Annual Report at 15.
[18] *Id.* at 14.

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Chapter 2: Siting Council Compared to Other States

New York & New Jersey

The Draft Report compares the CSC with the structure and processes of bodies in other New England states responsible for siting—namely, Massachusetts, Rhode Island, New Hampshire, Vermont, and Maine.[19] However, it does not consider, or even mention, New York or New Jersey. While New York and New Jersey are not considered New England states, they both have boards responsible for siting, and they are geographically closer to Connecticut than some other New England states. As such, Save the Sound respectfully urges DEEP to include these states in its comparison.

Chapters 3-5: Applications & Petitions

Timeline for Different Types of Facilities

Chapters Four and Five of the Draft Report show the average number of days that it has taken the CSC to render a decision on Applications and Petitions received, respectively, for each type of facility.[20] Notably, the average number of days it has taken the CSC to render a decision on petitions varies widely by the type of facility, with wind-jurisdiction facilities taking an average of 199 days, and FERC-jurisdiction facilities taking an average of 49 days. However, the reasons for this difference are not included in the Draft Report. To the extent that any reasons are discernable, Save the Sound urges DEEP to discuss them. Additionally, it would be helpful to break down what types of facilities are "FERC Jurisdiction" facilities, as the report does not specifically discuss FERC jurisdiction elsewhere.

Criteria for Evaluating Impacts & Public Need

As described in the Draft Report, the decision of whether a project follows the application or petition process hinges on whether the facility would have substantial adverse environmental impacts.[21] The decision on whether an application is granted can hinge on whether there is public need for the facility.[22] However, these key terms are not defined. While the statute provides that the evaluation of adverse environmental impacts may include, but is not limited to, electromagnetic fields; ecological balance; public health and safety; scenic, historic, and recreational values; agriculture, forests and parks; air and water quality; and fish, aquaculture and wildlife, it does not provide factors or criteria that that the CSC should use in considering them.[23]

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[19] Draft CSC Report at 16-21.
[20] *Id.* at 24, 28.
[21] *See id.* at 23; Conn. Gen. Stat. § 16-50k(a) (the council shall "approve by declaratory ruling [the construction of certain facilities]. . . *unless* the council finds a substantial adverse environmental effect . . .") (emphasis added).
[22] *See id.*
[23] *See* § 16-50p(a)(3)(B).

Save the Sound urges DEEP to further explore how the CSC reaches determinations of adverse environmental impact and public need to ensure that CSC's decision-making process is transparent and fully considers impacts. If the CSC does not rely on explicit criteria or factors to make these determinations, or if there are gaps in the criteria/factors it considers, Save the Sound urges DEEP to discuss that in the report.

> ***Policy Recommendation:*** *Develop criteria for determining whether there exist cumulative impacts, environmental impacts, environmental justice impacts, and public need.*

The Global Warming Solutions Act & Other Policies of the State

The Global Warming Solutions Act requires the state to reduce carbon emissions by 45% below 2001 levels by 2030 and by 80% 2001 levels by 2050.[24] Save the Sound appreciates that DEEP "takes into consideration that developing grid-scale renewables is imperative to the state's success in achieving" these targets.[25] We further appreciate DEEP's inclusion of Appendix 21, discussing Connecticut's climate goals and solar siting.

However, we urge DEEP to further evaluate whether/how the CSC considers these goals in its decision-making process. While the CSC has a critical role to play in ensuring that the state meets its climate targets under the Global Warming Solutions Act, the CSC does not routinely consider these targets (or other state policies, for that matter).

> ***Policy Recommendation:*** *Expressly require the CSC to consider the state's climate targets, as well as other policies of the state, when determining the nature of the facilities' environmental impact.*

Chapters 7: Opportunities for Public Participation in Siting Council Work

Public Participation in the Petition Process

As the Draft Report highlights, most siting decisions follow the petition pathway. However, a petition does not *require* a public hearing.[26] As a result, many, if not most, siting decisions may be relatively closed off to public participation.

> ***Policy Recommendation:*** *Require the CSC plan to hold a public hearing on every petition by default, while retaining the option of "opt-out" of a public hearing, upon a vote to do so. Alternatively, require the CSC to hold a public hearing upon receipt of a petition for a hearing.*

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[24] Conn. Gen. Stat. § 22a-200a(a).
[25] Draft CSC Report at 8.
[26] *Id.* at 23.

Public Education and Engagement

Save the Sound strongly supports the recommendations provided in the Draft Report for public education and engagement.[27] In addition, we offer the following suggestions:

> ***Policy Recommendations:*** *Expand the General Fund's "Municipal Participation Account" into a "Public Participation Account" that allows for the training of concerned residents in the CSC's decision-making process.*
>
> *Hire a CSC Director of Community Engagement and Governmental Affairs to provide residents with a comprehensive understanding of how to participate in CSC's decision-making process.*

Environmental Justice Communities

As we have noted in earlier comments, it is imperative that the CSC considers and prioritizes environmental justice. Save the Sound greatly appreciates the Draft Report's focus on environmental justice communities and its discussion of how the EJ Law intersects with the CSC.[28] As the Draft Report notes, the EJ Law is the "main statute that places requirements on CSC applications relevant to environmental justice communities."[29] Because this law is not targeted toward the CSC in particular, and it does not address all environmental justice concerns related to the siting of facilities, we offer the following suggestions:

> ***Policy Recommendation:*** *Add provisions addressing environmental justice communities into the Public Utility Environmental Standards Act or other CSC-specific statute. These provisions should include the following:*
>
> - *A grant of express authority to CSC to deny applications and petitions for affecting facilities if it determines there are less harmful alternatives. This authority should ensure equal protection of communities of various population sizes from potential affecting facilities;*
> - *Classification of solid waste transfer stations, chemical recycling facilities, and related hazardous facilities as "affecting facilities," in recognition of their adverse impact on public health; and*
> - *Requirement for CSC to provide written responses that specifically address any environmental justice concerns raised by any public commenter, in addition to those raised by agencies and intervenors.*

Chapter 8: Public Concerns – Noise, Visual & Community Impacts

[27] *Id.* at 37-45.
[28] *Id.* at 33-35.
[29] *Id.* at 35.

Other Community Impacts

The Draft Report lists noise, concerns, visual impact, and "other community impacts" as "common public concerns related to siting energy projects."[30] Because the category of "other community impacts" is quite broad, Save the Sound recommends further parsing out and describing the concerns that fall into this category, such as public health and safety, environmental degradation, and loss of agricultural or recreational areas.

Thank you very much for this opportunity and for your consideration of these comments.

Sincerely,

/s/ Jessica Roberts
Jessica Roberts
Staff Attorney
Save the Sound
127 Church St., 2nd Floor
New Haven, CT 06510

/s/ Alex Rodriguez
Alex Rodriguez
Environmental Justice Specialist
Save the Sound
Chair of Air & Transportation Subcommittee
Connecticut Equity and Environmental Justice Advisory Council
127 Church St., 2nd Floor
New Haven, CT 06510

[30] *Id.* at 36.

Connecticut Association of Conservation Districts

Denise Savageau, President
4 Hillwood Rd E
Old Lyme, CT 06371
203-918-9693 dmsavageau@msn.com

December 13, 2024

Katie Dykes, Commissioner
Department of Energy and Environmental Protection

Re: Siting Council Review

Dear Commissioner Dykes,

Thank you for the opportunity to comment on work of the Siting Council in siting public utilities, including the siting of large scale solar in Connecticut through the expedited Declaratory Ruling process. Connecticut's Conservation Districts recognize the importance of moving towards a clean, renewable energy future. Simultaneously, we understand the critical role that our natural resources play, in both mitigating climate change and adapting to the impacts of climate change that we are already witnessing in the field. A sustainable and resilient Connecticut is dependent upon protecting and maintaining our natural and working lands and the ecosystem services that they provide.

Connecticut's conservation districts provide technical assistance and education to farmers, municipal officials and staff, state agencies, and private landowners on soil and water conservation across the state. Much of our work is centered around protecting and improving watershed health on a landscape scale, but often working at the local level. We work closely with local municipalities on wetlands protection, stormwater management, nonpoint source pollution control, and source water protection, helping to implement proper erosion and sediment controls and stormwater management best management practices on construction sites. As part of our work, we are active members of Connecticut's Water Planning Council Advisory Group, the Long Island Sound Study (LISS) Citizens Advisory Group, LISS Watershed and Embayment Work Group, and Connecticut's Environmental Justice Advisory Council's Water Subcommittee. We also assist DEEP by providing inspections for stormwater permits on solar installation sites and have first-hand knowledge of the impacts of constructing these facilities on our soil and water resources.

As currently designed and implemented, large scale solar projects have negatively affected the health of our watersheds, impacting local streams, drinking water supplies, and Long Island Sound. These impacts occur both during and post construction. The timing and intensity of construction makes it difficult to control erosion, resulting in large movements of sediment into wetlands and watercourses. The compaction of soil from heavy equipment creates an impervious surface. This combination of sedimentation and compaction is permanently changing the hydrology of our watersheds by filling wetlands with sediments, reducing infiltration to groundwater, and increasing flash flooding and low flow conditions in nearby streams. Reducing the impact of large scale solar and utility infrastructure on our water resources should start with the Connecticut Siting Council, and proper planning and siting of such facilities. Additionally, as part of a sustainable future, we need to protect our local food systems and especially our prime and important farmland soils. It is within this context of watershed

and foodshed health that the following comments are offered for your consideration.

1. **Water Resources and Land Use Planning**

   There is a direct correlation between land use and water quality/quantity. Ensuring that watershed health is protected and/or restored should be a key consideration of any land use permitting agency, including the Siting Council. It is understood that there are numerous environmental concerns that must be taken into consideration when evaluating the impacts of clean energy development. Water resources, however, are being uniquely challenged by a warming climate, resulting in increases in flooding, drought, and water quality issues.

   The Siting Council was established to provide statewide coordination for the proper siting of utilities in our state. The Council currently supersedes local land use boards in authority. It should, therefore, be charged with the same standards that Planning and Zoning Commissions adhere to, with an overall mission to protect public health, safety, and welfare. This is critically important as it relates to water resources management and balancing utility needs with other environmental and public health concerns.

   Currently, the Siting Council does not do a thorough evaluation of environmental impacts related to water resources. This is especially problematic when it comes to siting large scale renewable energy such as solar through the Declaratory Ruling process. The Siting Council adopted new guidelines as recently as October 1, 2024 that still are inadequate to maintain watershed health (Siting Council Guidelines - Oct 2024). The guidelines should be updated to include the protection of all drinking water supplies, not just Aquifer Protection Areas. The Siting Council should also look at the impacts on long-term watershed health that affect hydrology, including the potential for flash flooding, flash drought, and development of water quality concerns related to harmful algal blooms.

   Specifically, in addition to what is already listed, the document should require the following:
   a. Name and delineation of the watershed where the development is taking place.
   b. Indication of whether it is in a public drinking water supply watershed as established by the CT Department of Public Health, as well as in an Aquifer Protection Area. As with local land use applications, any project in a public drinking water supply watershed should be referred to both the CT DPH and the water utility.
   c. A soils map with interpretations for land development (e.g., potential for severe erosion, shallow to bedrock, hydric soil).
   d. A narrative on how the design meets low impact development requirements of the newly revised Stormwater Quality Manual.
   e. Reference to the newly updated 2024 Erosion and Sediment Control Guidelines (instead of 2002)

   DEEP recognized that water resource management is a major concern, and in 2023 updated the RFP for renewable energy to include the following language. " Impacts to water resources, including but not limited to, wetlands and wetland soils, waterbodies, watercourses, groundwater, drinking water and public water supplies, and how those impacts will be avoided, reduced, and mitigated, if necessary, consistent with federal policy on no net loss of wetlands. If an impact is likely to occur, plans to reduce and mitigate must be clearly documented. The assessment for drinking water supplies should refer to source water protection mapping conducted by the CTDPH. The assessment for wetlands should include a vernal pool assessment, proposed setbacks from wetlands and vernal pools, and avoidance or mitigation." The Siting Council should follow this lead and implement similar language into their environmental review and considerations, especially in the declaratory ruling process.

   The Siting Council is now required to send applications on farmland to the CT Department of Agriculture. This is a good step, but more needs to be done. Healthy productive soils are

critical for maintaining a viable local food system in our region. Agrivoltaics is possible if done correctly but the siting of large scale solar for commercial purposes should be avoided on prime and important farmland soils. This is in keeping with the State's investment in farmland preservation and is important to the economic and environmental sustainability of Connecticut's local food system.

In keeping with work done by the Governor's Council on Climate Change Working and Natural Lands Group for a resilient Connecticut, there should be a focus on protecting ecosystem services by all land use boards, including the Siting Council, by adhering to these principles:

- Keep Forests as Forests
- Protect and restore wetlands and riparian areas
- Protect drinking water supplies at the source
- Protect and restore soil health across all landscapes
- Protect and restore prime and important farmland
- Protect and restore watershed health as an overall strategy for resiliency

2. Economic Considerations

The Siting Council must balance cost to consumer with environmental considerations. Unfortunately, this is done as a simple analysis, looking only at direct costs passed on through utility bills and other costs to consumers or the community at large, which must bear the burden of external costs associated with development that significantly impacts resources. A true economic analysis should also include evaluation of the external costs of installation relating to the loss of ecosystem services provided by the resource, including loss of carbon storage/sequestration, long term impacts of changes in hydrology, impacts on watershed health and water quality, impacts on air quality, and heat island effects.

3. Environmental Justice

Environmental justice impacts should be looked at wholistically. Although the exact location of the utility siting may not be in an EJ community, an EJ Community may indeed realize the impact. Water and air resources are flow resources and are not geographically static. Impacts to a watershed or airshed may impact EJ communities downstream or down wind. Additionally, only looking at utilities from an affecting facility perspective does not recognize the unrealized benefits of having renewable energy in an EJ community. Siting all renewable energy on the "cheapest" land, which includes our rural farms and forests, excludes our cities and EJ communities from taking direct advantage of clean energy. An analysis is needed to take distributed generation and storage into consideration. Does the utility advance development of a modern grid that benefits EJ communities? Or does it reinforce the old grid system at the expense of bringing clean renewable energy generation and storage to the people? Also, why not encourage development of rooftop solar in developed urban areas in EJ communities?

In closing, I offer revised language below to the Siting Council statute. This would broaden the economic analysis of any proposal, explicitly include all drinking water supply watersheds, and broaden the scope of protecting EJ communities to include benefits of renewable energy projects.

"Sec. 16-50g. Legislative finding and purpose. The legislature finds that power generating plants and transmission lines for electricity and fuels, community antenna television towers and telecommunication towers have had a significant impact on the environment and ecology of the state of Connecticut; and that continued operation and development of such power plants, lines and

towers, if not properly planned and controlled, could adversely affect the quality of the environment and the ecological, scenic, historic and recreational values of the state. The purposes of this chapter are: To provide for the balancing of the need for adequate and reliable public utility services **[~~at the lowest reasonable cost to consumers~~]** with the need to protect the environment and ecology of the state and to minimize damage to scenic, historic, and recreational values; to provide environmental quality standards and criteria for the location, design, construction and operation of facilities for the furnishing of public utility services at least as stringent as the federal environmental quality standards and criteria, and technically sufficient to assure the welfare and protection of the people of the state; **to consider the impacts to consumers fairly and wholistically by assessing all costs/benefits of a project both short and long term, including environmental externalities and the ecosystem services provided by natural and working lands; to ensure that environmental justice communities are not negatively impacted nor left out of the benefits of energy generation/storage including renewable energy;** to encourage research to develop new and improved methods of generating, storing and transmitting electricity and fuel and of transmitting and receiving television and telecommunications with minimal damage to the environment and other values described above; to promote energy security; to promote **distributed generation, reduce energy sprawl, and promote** the sharing of towers for fair consideration wherever technically, legally, environmentally and economically feasible to avoid the unnecessary proliferation of **energy and telecommunication facilities** ~~towers~~ in the state particularly where installation of such **facilities** ~~towers~~ would adversely impact **drinking water supply watersheds including but not limited to** class I and II watershed lands, and aquifers; to require annual forecasts of the demand for electric power, together with identification and advance planning of the facilities needed to supply that demand and to facilitate local, regional, state-wide and interstate planning to implement the foregoing purposes**."**

Thank you in advance for your consideration of these comments. As partners in soil and water conservation, we look forward to working with you in the future to ensure that solar facilities are developed sustainably and equitably.

Sincerely,

Denise Savageau, President
CACD

UI
An Avangrid company

December 13, 2024

Commissioner Katie S. Dykes
Connecticut Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

The United Illuminating Company's Comments on the Draft "2024 Connecticut Siting Council Study Report"

Dear Commissioner Dykes,

Thank you for the opportunity to comment on the draft *2024 Connecticut Siting Council Report (Report)*. The United Illuminating Company ("UI") understands that the goal of this report is to "examine the Connecdticut Siting Council, with a focus on the council's ability to balance the need for the facilities that the council oversees and the need for timely and thorough administration of the council's duties with the need to protect the environment, public health, and safety"[1].

As part of UI's commitment to prioritize reliable public utility service aligned with sustainability goals, while prioritizing the well-being of the public, and consistent with the Siting Council's purpose to objectively balance the public need for adequate and reliable public utility services along with the need to protect the environment, public health, and safety of the State, UI welcomes the study conducted by the Connecticut Department of Energy and Environmental Protection ("DEEP"), and the opportunity to review and provide feedback.

Upon review of the draft *Report*, UI commends the DEEP and stakeholders involved in this study for the swift and thorough compilation of the information presented. UI recognizes the effort involved in producing a comprehensive report within such a short timeframe and believes that the depth of the analysis presented reflects a commitment to addressing intricate and important issues. As part of its feedback, UI proposes the following suggestions and areas of clarifications for DEEP consideration:

I. Environmental Justice Communities

Environmental Justice ("EJ") continues to be at the forefront of regulatory changes across the nation, including Connecticut. UI is committed to hearing the voices of all communities, in including those historically marginalized as it moves forward with critical infrastructure projects. UI suggests that if there are any regulatory changes related to the Siting Council process

[1] State of Connecticut. (2024) *Substitute House Bill 5507-Public Act No. 24-144: An Act Concerning Certain Proceedings Relating to Electric Transmission Lines and the Membership and Processes of the Connecticut Siting Council*. Retrieved from https://cga.ct.gov/2024/ACT/PA/PDF/2024PA-00144-R00HB-05507-PA.PDF .

concerning environmental justice, those changes must take into consideration the Federal Energy Regulatory Commission ("FERC") guidelines.

UI facilities are currently located within UI's existing right of ways ("ROWs") and utility corridors. A number of these facilities are located in high density, urbanized areas that have been designated as EJ communities (the location of which UI's facilities predate some of these community designations). Any future proposed regulatory or statutory changes made pertaining to EJ need to be assessed, as they could result in serious conflict with FERC guidelines.

II. Expansion of Public Education and Training is Necessary

In comparison to surrounding states, the Siting Council has the highest representation of public members, as indicated in the draft *Report*[2]. Such robust public involvement highlights the Siting Council's responsibilities for assessing the public need for adequate and reliable public utility services with protection of the environment, public health, and safety of the State.

Moreover, recent updates have increased applicant support to municipal participation in the siting process in the form of financial compensation (an increase from $25,000 to $40,000, and sometimes $80,000[3]). Additionally, there are opportunities for the public and stakeholders to participate in the Siting Council processes, including but not limited to pre-application notices to municipalities from the applicant, public hearings and meetings and opportunities to comment.

Although there is a significant amount of opportunity for public participation in comparison to surrounding states, local community groups and municipalities have expressed their confusion and frustration with the process of participating in the Siting Council processes. Their concerns with the Siting Council processes have been well-articulated within the stakeholder recommendations, summarized in *Chapter 9-Recommendations from Stakeholders.*

UI supports the expansion of community and public education related to the Siting Council proceedings. Furthermore, UI and believes that it is valuable to recommend that municipalities with EJ communities collaborate closely with relevant stakeholders (e.g., interest groups, community organizations, and citizens) to promote a transparent, inclusive, and responsive process throughout CSC proceedings.

III. Chapter 9 Recommendations can be Expanded and/or Improved Upon

[2] Connecticut Department of Energy and Environmental Protection (DEEP). (2024) *Draft 2024 Siting Council Report*. Retrieved from https://portal.ct.gov/deep/planning/connecticut-siting-council-report .
[3] State of Connecticut. (2024) *Substitute House Bill 5507-Public Act No. 24-144: An Act Concerning Certain Proceedings Relating to Electric Transmission Lines and the Membership and Processes of the Connecticut Siting Council*. Retrieved from https://cga.ct.gov/2024/ACT/PA/PDF/2024PA-00144-R00HB-05507-PA.PDF .

UI
An Avangrid company

A. *DEEP Technical Opinion and Recommendations or Endorse Stakeholder Recommendations Relating to the 14 Issues Identified in Public Act 24-144*

Valuable insights and recommendations were provided in the *Report*. UI understands the recommendations presented in the draft report in many cases reflect the opinions of stakeholders, and not those of DEEP. However, it remains unclear whether or how the insights and/or recommendations could be implemented, by whom, and the overall effects on the processes of the Siting Council decisions, timelines, cost of applicants, and many other implications these recommendations may have.

Considering the technical expertise DEEP provides on many different fronts throughout Connecticut policy making and studies, as well as their commitment to addressing intricate and important issues, UI looks forward to seeing DEEP's technical recommendations in the final report. Additionally, UI suggests that the Agency considers offering technical opinion of recommendations made by stakeholders.

B. Further Analysis of Recommendations from Stakeholders

Chapter 9-Recommendations from Stakeholders include many key points that may improve the effectiveness of the overall Siting Council processes, provide further expertise on environmental impacts, energy markets and infrastructure, and increase overall public awareness and comprehension of the Siting Council's roles, responsibilities, and jurisdiction.

UI understands that this report will be provided to joint standing committees of the General Assembly having cognizance of matters relating to the judiciary, government administration and elections, energy, and the environment. UI highlights the necessity of further analysis of the recommendations made within the *Report* to support any future crafting of regulatory or statutory improvements made by the General Assembly.

Further analysis of the recommendations provided in *Chapter 9-Recommendations from Stakeholders* would provide deeper insights and strengthen the understanding of any implications these recommendations (and any future regulatory or statutory changes) may have to the Connecticut ratepayers and other participating state agencies or stakeholders.

UI suggests that recommendations are made to the General Assembly to conduct further analysis within the finalized Report. UI provides the following suggestion in support of further analysis of the recommendations provided in the draft *Report*:

1. The consolidation of recommendations into similar and/or related themes by DEEP;

2. For each theme, the promulgation of an action-oriented collective working group, represented by the Siting Council and other state agencies, utility companies, legislative leaders, and other local community groups that can provide valuable insight for each theme. UI recommends DEEP be the lead agency/organizer for each theme. UI supports a third-

party compile, analyze, and complete the studies with input from the stakeholders, which would provide valuable impartiality.

3. For each working group;
    a. Develop a Scope of Work ("SOW") for each study, which could include but not be limited to;
        i. Financial implications to utilities, rate payers, state agencies, and other applicable entities, if any;
        ii. Environmental and public safety implications, if any;
        iii. Analyzing and determining the feasibility of the implementation of the recommendations and/or proposed alternatives;
            1. The studies should clearly state whether the recommendations and/or alternatives in the *Study* are or are *not* feasible, and why.
        iv. Clearly define potential implementation process(es) of the recommendations and/or alternatives proposed.

IV. Expansion of PURA Involvement in Siting Council Decision-Making Could Unintentionally Infringe on Other Federal and State Agency Jurisdiction or Cause Conflicts

As a significant stakeholder in the Siting Council processes and procedures, UI has concerns with the proposed expansion of PURA's role in the Siting Council process, identified in *Chapter 9- Recommendations from Stakeholders.* Specifically, UI is concerned about the statement on Page 37 which states that "*PURA's ratemaking expertise, and the associated knowledge of transmission and distribution infrastructure that comes along with it, could provide value to the siting process when the CSC reviews the need either for transmission line upgrades that will impact ratepayer costs, or for "asset condition" project proposals to replace transmission infrastructure that a transmission owner asserts is damaged or deteriorated to the point of replacement, which projects, as noted above, do not have an entity providing effective oversight or scrutiny over the decision to bring forward*."[4]

Asset condition projects are different from transmission line upgrades that arise from the transmission planning processes. For clarity, the ISO-NE transmission planning processes identify transmission needs associated with expected future load, generation, and market economics (and do not review asset condition), whereas asset condition projects are undertaken to address deteriorating infrastructure that poses reliability and safety risks. The decision is based on the need, scope, and timing of asset condition projects is based solely on the transmission owner's inspections, analysis, and internal utility standards utilized to safeguard the public and utility workers, all to ensure that the transmission owners' assets are in a condition where it can provide

[4] Connecticut Department of Energy and Environmental Protection (DEEP). (2024) Draft 2024 Siting Council Report. Retrieved from https://portal.ct.gov/deep/planning/connecticut-siting-council-report

UI
An Avangrid company

safe, reliable utility service. This right of sole determination by the transmission owner is inextricably linked to the transmission owner's liability should an asset fail due to deterioration.

The transmission owner bears the risk that investment in an asset condition project could later be deemed imprudent in a FERC rate proceeding. If the Siting Council were to overrule a transmission owner's determination of need for an asset condition project, and the asset fails, the transmission owner may have grounds to disclaim liability for any adverse reliability or safety impacts that occur.

PURA's Chairperson is already a member of the Siting Council. It is not clear how expansion of PURA's role in the siting of asset condition projects benefits the process. Chapter 9 seems to contemplate that PURA would have an expanded role in the Siting Council's determination of a public need for an asset condition project. The construction of new electrical transmission lines requires a certificate of environmental compatibility and public need from the Siting Council pursuant to the Public Utilities Environmental Standards Act (PUESA), Chapter 277a, General Statutes § 16-50g et seq. The Siting Council has a legal obligation to issue that certificate – if appropriate. The Company respectfully submits that the statute clearly delineates that this role is for the Siting Council and does not include PURA as part of that certificate approval process.

We understand that under Connecticut law, the Siting Council's role does not involve ratemaking, but instead is limited to issuing certificates of environmental compatibility based on the public's need for the construction, operation, and modification of facilities that will not have a substantial environmental effect. This includes electric transmission lines, fuel transmission facilities, electric generating or storage facilities, electric substations or switchyards, community antenna television towers, and telecommunications towers. See C.G.S.A. § 16-50i. Rate authority for transmission related projects is vested with FERC and under their jurisdiction. An expansion of PURA's role into the Siting Council as described in the stakeholder recommendation would raise serious concerns of an overlap between federal and state jurisdiction.

We appreciate the opportunity to provide stakeholder involvement in the draft *2024 Connecticut Siting Council Study*. UI will welcome the opportunity to continue its participation in future studies and or working group sessions to provide feedback and recommendations as appropriate. Thank you for your time and consideration of these comments. Please let us know if you would like to discuss these comments further.

Respectfully Submitted,

Todd Berman
AVANGRID
Sr. Director - Environmental & Permitting
100 Marsh Hill Road, Orange CT 06477

EVERSOURCE ENERGY

56 Prospect Street
P.O. Box 270
Hartford, CT 06103

Kathleen M. Shanley
Manager – Transmission Siting
Tel: (860) 726-4527

December 13, 2024

Eric Hammerling
Diego Merizalde
Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106

Re: Eversource Comments to the Draft 2024 Connecticut Siting Council Report

Dear Mr. Hammerling and Mr. Merizalde:

Thank you for the opportunity to provide comments on the subject draft Report. The Company very much appreciates the inclusion of stakeholders in the process to develop the draft Report and would like the continued opportunity to remain engaged in the execution of final recommendations, as determined by DEEP. Eversource acknowledges that the recommendations proposed in the draft Report were gathered from conversations with stakeholders and have not been reviewed or adopted by DEEP.

The Report provides a good summary of the Siting Council's jurisdiction, structure, history, and processes, and also provides some insight as to how siting reviews are undertaken in other states and particularly in New England. Eversource comments are primarily limited to recommendations regarding asset condition projects (1) and meaningful public engagement (11). To increase the utility of the report as a reference, a list of refinements or clarifications to the Report are attached for your consideration.

Recommendation (1)

The decision to replace an asset that has been determined to be at risk of failure is not at "the transmission owner's discretion," as stated in footnote 118. Eversource utilizes long-held industry standard metrics including, for example, criteria developed by the Electric Power Research Institute for visual inspection of overhead transmission line structures to determine priority rating/risk category of its structures and prioritizes replacement of those that are rated as needing immediate replacement. Most asset condition projects require filings with the Siting Council. Eversource's filings for each of its asset condition projects routinely append photo documentation with the submittals, but inspection

summaries are also available for each asset proposed for replacement. The final report should clarify the Siting Council's review process for asset condition projects.

The Report has the suggestion that the Siting Council utilize an outside consultant to review asset condition projects and engage in greater collaboration "with other agencies like PURA with expertise in this area." Eversource suggests that the report identify these other agencies and be more specific about their expertise in asset condition projects.

Further, asset condition projects are not a "preference" and the need for transmission structure replacements – which are essential to providing safe, reliable service – cannot and should not be factored in or balanced against other cost line items in the electric bill.

The recommendation that DEEP coordinate with the Council regarding load forecasting and long-term planning including providing reviews of applications or petitions is unnecessary as DEEP is a member of the Council and can participate in these types of reviews.

Collaboration with PURA to utilize its rate making expertise for a project proposed for the purpose of replacing deteriorating or aging infrastructure determined to be an unacceptable risk to reliability is not necessary, as the rate structure for these projects is already established.

Recommendation 11

Eversource prides itself on the degree of public outreach and engagement that typify Eversource projects and supports a more formal expanded outreach process, as suggested by this recommendation. The fourth bullet suggests the Council use the existing public participation requirements in C.G.S. Sec. 22a-20a as a "guide" for the Council's public notice requirements. However, draft language proposed for PA 44-124 should be reconsidered. This language mirrored the requirements of this statute and proposed that expanded public notice and public engagement, include consideration of impacts to community services and planned development, and be a requirement of all applicants *in all instances*, including Environmental Justice communities. Although this draft language was not challenged by the Council or the regulated community, this proposed language was later removed from the bill. Eversource suggests this recommendation would be enhanced by including this draft language in the statue as a requirement, rather than a guide. For your convenience, the draft language is included in the list of suggested clarifications and refinements below in the item that references Page 42.

Thank you for the opportunity to provide comment on the draft report. If you have any questions, please contact me at kathleen,shanley@eversource.com or 860-728-4527.

Sincerely,

Attachment

SUGGESTED REFINEMENTS & CLARIFICATIONS

Page 2: Suggest a clarifying addition to the end of the second paragraph so the sentence reads, "….though the statute ~~carves out~~ does not apply to renewable energy and transmission line projects ~~from coverage~~ as these are not sources of air emissions." *The use of the phrase "carves out" sounds deliberative, however these resources simply do not fall into the qualifying criteria of the statute.* Note: duplicate reference on page 34.

Page 4: The graphic should include the Legislature as one of the "Key State Partners" and note that this body appoints two members of the Council, avoiding confusion that the Siting Council is made up of 7 members (as suggested by the graphic) instead of 9.

Page 6: Telecommunications was not part of the original PUESA in 1971 but was added later.

Page 8: The final bullet under the description of PURA ends with the phrase "through the distribution side." Suggest replacing with "through PURA's jurisdiction over retail rates."

Page 12: Suggest reordering the list of potential environmental impacts as the evaluation of electric and magnetic fields is not universally applicable to all applicants.

Page 13: The beginning of the last paragraph refers to a graphic that is not provided.

Page 19: The MA DPU has exclusive siting jurisdiction over some transmission projects that do not qualify for filing with the EFSB. The DPU also has jurisdiction over substations and/or switchyards when petitioned for a zoning exemption.

Page 20: Similar to the Rhode Island EFSB, the Siting Council also has a 30-day completeness review.

Page 26: The graphic depicts a 60-day municipal consultation period when elsewhere this is correctly defined as 90 days, per PA 14-144. Also, it depicts a "Maximum 180 days" for the Council to render a Decision, when elsewhere the report correctly identifies that the Council has up to 1 year for electric transmission projects.

Page 29: The graphic seems to suggest that a municipal evaluation and comments are required for all petitions. However, they are not. Municipalities can submit comments and participate in the petition process, but they are not universally required to do so.

Page 31: The language regarding the Siting Council's exclusivity in New England for pre-application requirements with a "municipal notice procedure" is accurate in the strictest sense, though the SEC in New Hampshire also has pre-application requirements for community outreach – this distinction is not noted in the draft report's comparisons of siting processes among the New England states.

Page 33: Under the second complete paragraph with the sub-heading "**Applications**" suggest distinguishing between the Council's customary practice of holding a public comment session as well as a public evidentiary hearing(s).

Page 36: The text should note the Council's frequent imposed condition for an applicant or petitioner to develop landscaping plans, most of which require approval by the Council.

Page 37: The sentence to which footnote 118 is attached includes the text "as noted above" but it is not clear which section the text refers to.

Page 39: The terms "public hearing" and "public meeting" appear to be used interchangeably. The Council holds public comment sessions at night for the convenience of the public. The Council's regularly scheduled meetings are public meetings, are typically held during the day and limited to Council discussion and votes on projects.

Page 41: Cost information submitted to the Council under a protective order is reviewed by the Council although it is not disclosed to the public.

Page 42: Suggested language as it appeared in Proposed Substitute Bill 5507 under Sec.3 Section 16-50*l* (2)(e):

> …..[facility to be located] with (1) *a public engagement plan that shall include the effect of the project on community services and infrastructure and the impact of the project on proposed development and the municipal tax base*".

Conservation
Law Foundation

For a thriving New England

CLF Connecticut
www.clf.org

Department of Energy and Environmental Protection
79 Elm Street
Hartford, CT 06106-5127

Submitted via email to DEEP.ERSI@ct.gov

December 13, 2024

Re: Comment on Siting Council Report as Required by Public Act 24-144

To Whom it May Concern:

Conservation Law Foundation (CLF) is a regional environmental nonprofit dedicated to creating a thriving New England for all, and we submit these comments in response to DEEP's Updated December 2, 2024 Notice of Public Meeting and Request for Public Comments on the Draft Connecticut Siting Council (CSC) Report ("Draft Report"). These are in addition to our oral remarks, delivered by Kendall Keelen, at the December 5, 2024 Public Meeting.

CLF is grateful for DEEP's efforts to develop a comprehensive draft report as required by Public Act 24-144. We appreciate DEEP's efforts to use plain language and graphics throughout the report and think this provides a helpful model for communication about the siting process moving forward. There are several areas where more information or deeper analysis is necessary to address the topics specified by the legislature. We also have additional suggestions on how to improve the siting process. Our comments are organized according to the structure of the Draft Report.

Chapter 1: Siting Council History, Jurisdiction & Responsibilities

- The Draft Report's discussion of roles that state agencies other than the Siting Council play in siting notes that DEEP "takes into consideration that developing grid-scale renewables is imperative to the state's success" in meeting the state's statutory climate goals under the Global Warming Solutions Act to reduce carbon emissions by 45% below 2001 levels by 2030, by 80% below 2001 levels by 2050, and to achieve a 100% zero-carbon electric sector by 2040.[1] We would appreciate more detail on how DEEP considers these obligations; how heavily a project's carbon impact is weighed in the siting process, and how DEEP's consideration of this factor influences the siting council's decision-making.

[1] Draft Report at 8, Appendix 21; Conn. General Statutes Sec. 22a-200a(a)(3).

- The Draft Report includes a partial list of factors that may be evaluated in determining whether a facility may have an adverse environmental impact. DEEP should include more clarity on how the CSC determines which impacts to evaluate; how that evaluation is conducted; how a determination is made as to whether a project will have a "substantial adverse environmental effect in the state[;]" and how the public is included in that determination.
- We appreciate the clarification of the differing definitions of "core forest" under statute and within DEEP.[2] We request further clarity on why DEEP relies on a narrower definition of core forests in making determinations of no material impact.

Chapter 2: Siting Council Compared to Other States

- We appreciate that DEEP included comparison to other New England states' siting processes. DEEP should also include analysis of New York's Office of Renewable Energy Siting and Electric Transmission (ORES) model for siting renewable energy projects. This model creates uniform, basic standards for renewable projects absent unusual circumstances. Connecticut should consider implementing uniform standards for renewables siting to increase fairness, efficiency, and cost-effectiveness. Connecticut can also learn from New York's approach to public participation both prior to and after creating ORES. Under the prior regulations, New York required developers to submit a Public Involvement Program Plan (PIP) as part of an application.[3] These plans included consultation with agencies and stakeholders, pre-application activities to encourage early stakeholder engagement, public education regarding the specific proposal and the approval process, online dissemination of project information, and other activities to encourage stakeholder engagement in certification and compliance processes. These pre-application plans helped to create better public process and stakeholder engagement, leading to better siting decisions. Under ORES robust pre-application requirements for public participation were continued.[4] Connecticut should consider these examples in evaluating its approach to public participation.
- DEEP included the Massachusetts Energy Facilities Siting Board in its analysis of other states' approaches. However, the information provided did not appear to integrate the recent changes to siting in Massachusetts.[5] DEEP should update its analysis and description to include the recent changes to the siting process in Massachusetts. Some of those updates include integration of cumulative impacts analysis into siting decisions and a streamlined

[2] Draft Report at 13.
[3] *See*, *e.g.*, Invenergy, *Public Involvement Plan: Number Three Wind Farm* (May 27, 2016), {917054DF-5987-4D16-8E8E-BF524E6E8E98} (4).pdf; Eight Point Wind, LLC, *Public Involvement Plan: Eight Point Wind Energy Center* (Jan. 2016), {D49E58BD-9654-47AF-A6A8-A549D84B8B9A} (1).pdf.
[4] *See* Chapter XI, Title 16 of NYCRR Part 1100 at §1100-1.3(a)(b), https://dps.ny.gov/system/files/documents/2024/08/chapter-xi-title-16-of-nycrr-part-1100-generation-siting-effective-2024-07-17.pdf.
[5] Massachusetts Senate Bill No. 2967 (2024); Miriam Wasser, *Here's what's in the new Mass. Climate and clean energy law*, WBUR (Nov. 21, 2024), https://www.wbur.org/news/2024/11/04/2024-massachusetts-clean-energy-bill-solar-wind-batteries-permitting-reform.

approach that consolidates permitting in one entity. These are both reforms that could be effective in Connecticut as well and deserve consideration in the Draft Report. It would be helpful for the final report to specifically discuss which states (in New England and New York) consolidate permitting into one entity and which states include cumulative impacts analysis in the siting process to inform whether Connecticut should take similar approaches to permitting authority and impacts assessments.

Chapter 3: Overview of Applications and Petitions

- In addition to this information about the CSC process, it would be helpful for DEEP to provide an overview of how the siting process intersects with other state permitting processes. Specifically, it would be helpful to know how long it takes applicants to obtain necessary permits from state agencies other than CSC, particularly from DEEP, and whether there are any overlapping requirements in these permitting processes that could be consolidated or otherwise modified to increase efficiency.

Chapter 7: Opportunities for Public Participation in Siting Council Work

- The Draft Report indicates that the CSC website is comprehensive and "relatively easy" for stakeholders to navigate, especially the search function.[6] However, other stakeholders including environmental justice community members and professional advocates find the website challenging to navigate. For those unfamiliar with a docket structure it can be confusing and challenging to quickly identify where a project is in the process. The website includes a lot of technical language and few visual aids. The Draft Report should be edited to include these challenges with the website, which are acknowledged in Chapter 9, in addition to positive experiences in this chapter.
- The Draft Report should also include more detailed information about the various pathways for public participation including intervention, public comments, and testimony at hearings. The Draft Report should address the applicable timelines, burdens (time and financial), and necessary expertise for all these pathways. It should also address the different results associated with various pathways for participation, such as whether public remarks will be a part of the record before the CSC or considered as evidence, how the remarks will be considered by the CSC, and whether the participant has a pathway to submit additional information for consideration or the ability to challenge the decision.

Chapter 8: Public Concerns—Noise, Visual, and Community Impacts

- This chapter identifies three public concerns: noise, visual impact, and "other community impacts." This third category includes a number of diverse concerns ranging from ensuring proper distancing from schools and other sensitive sites to "effects on local wildlife, air

[6] Draft Report at 31.

and water quality, and the general ecological balance of the area."[7] These concerns need to be separately identified and analyzed in this report, particularly those raised by already energy-burdened communities since that will be a key step in ensuring equitable siting decisions. There are also additional common public concerns that the report fails to address at all. For example, there is widespread concern about impacts to prime agricultural lands and core forests and a desire to ensure that we are protecting these important resources. Many energy-burdened communities are also deeply concerned about the impacts of energy infrastructure on their neighborhoods—impacts that include the physical effects of construction and operation, loss of green space, impacts to historic properties, and economic impacts to name only a few. These impacts accumulate over time and as new projects are built, highlighting the need for cumulative impacts analysis. DEEP must separately identify and analyze these common concerns and should consult with energy-burdened communities in doing so.

Chapter 9: Recommendations from Stakeholders

We appreciate many of the suggestions included in this chapter. Below, we share our reactions to suggestions included in the draft report as well as additional suggestions we hope will be included in the final report. We have organized our comments according to the fourteen factors DEEP was required to address, as the draft report does.

1. *The scope of the CSC's jurisdiction, the composition of the CSC's membership and the CSC's powers, duties, role and responsibilities, as compared to those of other state agencies.*

The legislature should consider assigning the CSC exclusive authority over renewable energy projects above a certain megawatt threshold (including battery storage and the transmission infrastructure needed for the clean energy transition) such that there is a consolidated permitting process, and applicants no longer need to seek additional permits from DEEP and other state agencies. This could increase accessibility and create efficiencies for the review and development of renewable energy projects. Massachusetts recently consolidated permitting for projects of a certain size into its Energy Facilities Siting Board (EFSB) while preserving local authority over smaller projects—however, if those smaller projects do not get permitted in a timely manner the EFSB can assume jurisdiction and put those projects through the consolidated process. New York also has consolidated jurisdiction over renewable projects in ORES. These consolidated processes not only create more uniform, streamlined, and efficient processes for developers, but also make siting decisions more accessible to the public by creating a single process to engage with rather than numerous processes at different levels of government.

2. *The effectiveness of the CSC's structure, with consideration of other structures based on best practices in other states, and any statutory or administrative changes that may be*

[7] Draft Report at 36.

needed to implement such recommendations.

We agree with the suggestions in the report to increase staff capacity and per diem pay for members of the CSC. Additionally, as identified in our comments on Chapter 2, the legislature should consider adopting elements of New York's ORES process and Massachusetts' recent siting reforms. In particular, we feel that the consolidated permitting processes for renewables in both states could be a useful model for Connecticut. We also think that recent changes in Massachusetts like the adoption of cumulative impacts analysis in siting, which would allow for a more detailed and inclusive analysis of the impacts of adding facilities to historically energy-burdened communities. We also commend the creation of a funding mechanism for intervenors similar to Connecticut PURA's fund, which would allow the public to meaningfully participate in the technical and quasi-judicial siting process. Finally, we support Massachusetts' plans to develop site suitability criteria, baseline standards for approval (which may vary by project type), and standard permit conditions. This strategy of providing standardized guidance in advance, particularly around suitable sites, will help to make the siting process more effective, more efficient, increase meaningful community engagement, and reduce conflict during the application process.

3. *Processes for issuing a certificate of environmental compatibility and public need (Certificate) or approving a petition for a declaratory ruling (Petition), as described in section 16-50k of the general statutes, including how to better integrate new technologies into such processes.*

We support the proposals in the draft report on improving the processes for issuing certificates and approving petitions. In addition to these measures, we further recommend that public information sessions and meetings be required for petitions for a declaratory ruling on projects in Environmental Justice communities as defined in CGS 22a-20a ("EJ Law"). Given that the vast majority of projects move through the petition process rather than the certificate process, it is important to ensure public engagement in our most vulnerable communities. The public participation regulations currently being developed in association with the EJ law could provide a roadmap for how to structure these information sessions to allow for meaningful participation. We have included some specific suggestions for effective public process below in our response to #11.

4. *The CSC's oversight of completed projects.*

We support the suggestion that the CSC collect and share geographic information to provide better planning and oversight. We further suggest that this information be made publicly available in the form of a mapping tool to better enable communities to understand the cumulative impacts of siting decisions.

5. *Criteria used by the CSC in evaluating applications.*

Greater clarity on the criteria the CSC uses, as well as how the CSC determines and balances those criteria, is needed. This is true for the certificate process, the petition process, and for the determination of whether a project is likely to have adverse environmental effects within the state. While the CSC (or partner agencies) currently considers factors like consistency with statutory targets under the Global Warming Solutions Act, public need, and environmental impact, the public often feels that the CSC fails to properly consider such concerns. It may be that the CSC needs better analysis of these elements, that it needs to better respond to comments submitted, or that factors should be weighed differently. More detail on the CSC's current analytical and evaluative process would be helpful in formulating more specific suggestions. Creating a "hard look" standard or more robust alternatives analysis, similar to that required of federal agencies under the National Environmental Policy Act[8], may be other ways to strengthen the CSC's review.

CLF also suggests that DEEP recommend that the legislature add a cumulative impacts analysis, created in consultation with environmental justice experts and DEEP, to the siting process for facilities proposed in environmental justice communities. The report clarifies that while Connecticut's Environmental Justice Law technically applies to siting, the carve outs in the definition of "affecting facilities" limit its application.[9] Additionally, the public participation plans required under the law are only applicable to the certificate process,[10] but most projects progress through the petition process.[11] This means that the cumulative impacts analysis that will be required under the law (pending regulations) will have limited impact. We encourage DEEP to recommend that legislature consider amending the EJ law and/or other statutes governing the CSC to require a cumulative impacts analysis for all proposed facilities in environmental justice communities.

6. The Council's ability to adhere to statutory timeframes.

Based on the information in the draft Report it appears that the CSC is generally successful in adhering to statutory timeframes.[12] However, there is a significant difference in the time it takes the CSC to process different types of projects. Specifically, CSC takes more time to review renewable energy projects like wind and solar than energy transmission, fuel cell, substation, telecom, and projects under the jurisdiction of the Federal Energy Regulatory Commission (FERC)[13] DEEP acknowledges the need to accelerate deployment of renewables to meet state climate targets.[14] Further analysis of this gap would be helpful to understand the timeline disparities between renewable energy projects and other projects reviewed by the Council.

[8] 42 U.S.C.A. § 4321 *et seq.*
[9] See Draft Report at 34.
[10] See Draft Report at 34.
[11] See Draft Report, Chapter 3.
[12] *See* Draft Report, Chapter 3.
[13] *See id.* at 28. (FERC regulates interstate transmission of electricity, natural gas, and oil. The draft report did not define the types of facilities the Council reviews that sit within FERC jurisdiction.)
[14] *See* Draft Report, Appendix 21.

7. *How the council evaluates any economic, conservation, and development impacts of projects that the council approves, including the council's evaluation of (a) a project's consistency with transit-oriented development and other state and municipal economic development objectives, and (b) the degree to which a project forecloses the opportunity for economic development to occur.*

CLF supports the suggestions in the Draft Report. Haring pre-filing information with Councils of Government (COGs), allowing petitioners and applicants to request information on whether a proposal would be compatible with transit-oriented development, and requiring the CSC to better explain its findings on cost-benefit analysis are all tools that could help ensure better access to information and ability to coordinate.

8. *The efficacy of the CSC's processes for developing evidence.*

We support the suggestion to restore field reviews as part of the public hearing process. CLF has heard concerns from community leaders that applications and reports do not always match conditions on the ground. Site visits are an important component for ensuring that the CSC is accurately evaluating the potential impact of proposed projects.

10. *The CSC's Relationship with Municipalities and Other Governmental Bodies.*

We agree that further clarification of the roles of municipalities and other state agencies in the siting process would be helpful, and further suggest consolidation of all permitting for renewable energy projects into one process.

11. *Policies, procedures, and processes for inclusive public engagement in council decision-making, including to increase transparency and encourage public participation, especially in environmental justice communities, as defined in section 22a-20a.*

Public engagement with the siting process is one of the biggest challenges with the siting system in Connecticut. CLF appreciates the analysis of this issue in the Draft Report, and in general agrees with the suggestions to enhance education and public engagement, make CSC's web materials more accessible to the public, and to make public hearings less intimidating.

In particular CLF supports adding a CSC staff member dedicated to supporting public involvement by providing information, support, and responding to inquiries. This person could also help to maintain a list of specialists that community members could consult or retain on technical questions and connect the public with informational and financial resources. The quasi-judicial siting process can be challenging to navigate for members of the public and having a staff member serve as a public liaison would provide a much-needed resource for the public. One model for this is the Federal Energy Regulatory Commission's Office of Public Participation.[15] We also support

[15] *See* https://www.ferc.gov/OPP.

development of a public participation fund for certain stakeholders (such as residents of environmental justice communities) similar to the Stakeholder Group Compensation Fund developed by PURA and Community Intervenor Funding programs provided by NYS ORES.[16] Ideally, the CSC will limit participation in the stakeholder compensation fund to affected groups that qualify under the relevant definitions of environmental justice. We feel that, paired with other proposals, this would better allow small local groups to engage with the highly technical, quasi-judicial siting process.

CLF also supports the CSC providing guidance to project applicants on how to provide sufficient and timely notice. Given the strict timelines and formal process, many community members do not find out about proposed projects until it is too late for them to fully participate in the process. Improving notice is a key way the CSC can improve public involvement and the quality of decisions. CLF recommends that notice be provided at least 30 days in advance of opportunities to participate and that notice be posted at the proposed project site, physically throughout the surrounding neighborhoods, in local news media, on the CSC and local municipal websites, on social media, and that notice be provided in any languages spoken by 15% or more of the surrounding neighborhoods within a half mile radius.[17] In addition, we suggest that CSC allow individuals to sign up to receive email notices of any proposed project in their municipality. Where projects are proposed in environmental justice communities, those community members should receive advance notice before an application is filed, and ideally applicants should provide at least two public meetings: one to inform the community of the proposal and a separate, later meeting to receive feedback.

CLF supports in-person public hearings but recommends providing both virtual and in-person meetings or hybrid meetings as the most effective and inclusive. Where meetings are virtual participants should still have the ability to participate fully by asking questions and translation services should be provided if 15% or more of the surrounding neighborhoods within a half mile radius speak a language other than English. In-person meetings should be held in a location that is easily accessible (preferably by public transit) to members of the affected community and ideally should be offered at multiple times to accommodate varying schedules. Meetings scheduled in the evening should provide food and childcare options to best support community involvement. Even if the legislature does not require in-person meetings the CSC could still provide in-person options as a best practice, particularly in environmental justice communities.

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[16] PURA initiated Docket No. 23-09-34 pursuant to Pub. Act 23-102 that required the Authority "to establish a program to award compensation to eligible stakeholder groups." See, Pub. Util. Reg. Auth. Dkt. No. 23-09-34, *PURA Implementation of the Stakeholder Group Compensation Provisions of Sect. 15 of Pub. Act 23-102*, p. 1, Jan. 3, 2024, https://portal.ct.gov/-/media/pura/stakeholder-compensation/230934-fd-pura-implementation-of-stakeholder-group-compensation.pdf?rev=b9ab0b8ef8874c5099f7725151301e66&hash=7DF6084FD1EA037C5D015335E9D2E185. NYS similarly required ORES to create a community intervenor fund to facilitate involvement from communities adjacent to proposed facilities. N.Y. Comp. Codes R. & Regs. tit. 19, § 900-5.1.

[17] CLF suggests the half mile radius for consistency with the CT EJ law, but also suggests that DEEP seek further feedback on whether this radius should be expanded to fully capture impacted communities.

CLF also supports the suggestions on how to make CSC's web materials more accessible to the public and recommends adoption of a plain-language requirement for publicly-facing materials. In addition to those suggestions we also recommend that CSC develop a mapping tool that allows the public to see existing facilities as well as proposed and pending facilities. Users should be able to click through information about the status of the project and ways to engage in pending applications. Such visual tools could help the public to navigate to the projects they are most interested in engaging with.

12. *Equitable practices and processes in council decision-making for considering community compensation.*

In addition to the municipal participation account, the CSC should implement a public participation fund for certain stakeholders (such as residents of environmental justice communities) similar to those facilitated by PURA and ORES. The siting process is incredibly technical, and effective engagement often requires large amounts of time and resources in addition to retention of professionals like lawyers and engineers. While municipal involvement is important it is not sufficient—municipalities often do not fully represent the interests of particular communities, neighborhoods, constituencies, or interests. In addition to using the PURA Stakeholder Group Compensation Fund as a model, DEEP should look to the community intervenor funding program that ORES provides. In New York, to obtain community intervenor funding, community intervenors must apply to the Office.[18] The applicant must provide a statement on the availability of funds; the amount of funds being sought; if possible, the name and qualifications of each expert to be employed; a statement of the services that will be provided by the experts and/or attorneys; a description of any studies to be performed; etc.[19] Community intervenors must reside within one mile of a proposed solar facility or five miles of a proposed wind facility.[20] Community intervenors that are non-profits must demonstrate a concrete and localized interest that may be affected by the proposed facility and that such interest has a significant nexus to its mission.[21] A public participation fund, tailored to communities most affected by facilities, like environmental justice populations, would allow community members and small organizations to better engage with siting decisions.

13. *How the Council addresses common public concerns related to siting, such as noise, visual and other community impacts.*

The CSC should publish a response to all public comments and should explain how comments are or are not addressed in each decision.

Appendices 4 & 6

[18] N.Y. Comp. Codes R. & Regs. tit. 19, § 900-5.1.
[19] *Id.*
[20] *Id.*
[21] *Id.*

- We appreciate that these appendices provide further detail on the Certificate and Petition processes. However, the Draft Report should provide further detail on one of the topics identified in PA 24-144: Criteria used by the CSC in evaluating applications. Appendix 4 on the Certificate process includes a list of the four statutory criteria that the CSC considers (public need, environmental and conservation effects, economic impacts, and development impacts) along with a narrative description of what each criterion includes. But more detail is needed. For example, DEEP writes that the CSC engages in a cost-benefit analysis to ensure that localized costs to communities are "reasonable and justified."[22] The report should include information as to how the CSC makes these determinations, what criteria or evidence it examines to make these determinations, and how it balances the various criteria. Appendix 6 on the Petition process includes even less information. DEEP merely states that "the CSC engages in formal deliberations to review all evidence, public comments, and agency input" without elaborating on the factors the CSC considers or how it weighs those factors. The draft report is required to address the criteria that the CSC uses in evaluating applications, and that information should be added to Appendix 6 on the Petition process.

Conclusion

We appreciate the opportunity to provide comments and hope that DEEP will incorporate these recommendations. Please do not hesitate to follow up with us if we can provide further information.

Sincerely,
Rachel Briggs
Staff Attorney
Conservation Law Foundation
195 Church Street
Mezzanine Level, Suite B
New Haven, CT 06510
Phone: 203-902-2131
Email: rbriggs@clf.org

[22] Draft Report, Appendix 4, at 57.