



# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

Phone: (860) 827-2935 Fax: (860) 827-2950

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### CERTIFIED MAIL RETURN RECEIPT REQUESTED

May 18, 2015

Richard Procanik  
Project Manager  
Core States Group  
58 Mount Bethel Road, Suite 301  
Warren, NJ 07059

RE: **PETITION NO. 1148** – Bloom Energy Corporation, as an agent for Home Depot USA, Inc., petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the location and construction of a Customer-Side 200-Kilowatt Fuel Cell to be located at the Home Depot store at 600 Connecticut Avenue, Norwalk, Connecticut.

Dear Mr. Procanik:

At a public meeting held on May 14, 2015, the Connecticut Siting Council (Council) considered and ruled that the above-referenced proposal would not have a substantial adverse environmental effect, and pursuant to Connecticut General Statutes § 16-50k would not require a Certificate of Environmental Compatibility and Public Need, with the following conditions:

- The Petitioner shall submit to the Council a copy of the building permit sign-off from the Norwalk Planning & Zoning Department on this fuel cell project;
- The facility owner/operator shall remit timely payments associated with annual assessments and invoices submitted by the Council for expenses attributable to the facility under Conn. Gen. Stat. §16-50v;
- This Declaratory Ruling may be transferred, provided the facility owner/operator/transferor is current with payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v and the transferee provides written confirmation that the transferee agrees to comply with the terms, limitations and conditions contained in the Declaratory Ruling, including timely payments to the Council for annual assessments and invoices under Conn. Gen. Stat. §16-50v; and
- If the facility owner/operator is a wholly owned subsidiary of a corporation or other entity and is sold/transferred to another corporation or other entity, the Council shall be notified of such sale and/or transfer and of any change in contact information for the individual or representative responsible for management and operations of the facility within 30 days of the sale and/or transfer.

This decision is under the exclusive jurisdiction of the Council and is not applicable to any other modification or construction. All work is to be implemented as specified in the petition, dated March 13, 2015, and in compliance with Public Act 11-101, An Act Adopting Certain Safety Recommendations of the Thomas Commission.

Enclosed for your information is a copy of the staff report on this project.

Very truly yours,

A handwritten signature in blue ink that reads "Robert Stein" followed by the initials "MAB" in a smaller, slightly larger font.

Robert Stein  
Chairman

RS/CMW/lm

Enclosure: Staff Report dated May 14, 2015

- c: The Honorable Harry W. Rilling, Mayor, City of Norwalk
- Michael Greene, Director of Planning and Zoning, City of Norwalk
- Michael Wrinn, Assistant Director of Planning & Zoning, City of Norwalk
- Dori Wilson, Senior Planner, City of Norwalk
- Lynne Connors, Bloom Energy Corporation
- Amy Shanahan, Bloom Energy Corporation



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### Petition No. 1148

**Bloom Energy Corporation**

**Norwalk, Connecticut**

**Staff Report**

**May 14, 2015**

On March 16, 2015, the Connecticut Siting Council (Council) received a petition from Bloom Energy Corporation (Bloom), as an agent for Home Depot USA, Inc., for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the installation of a 200-kilowatt (kW) fuel cell facility at the Home Depot store at 600 Connecticut Avenue, Norwalk, Connecticut. Council member Dr. Barbara Bell, Acting Executive Director Melanie Bachman, and Supervising Siting Analyst Christina Walsh visited the site on May 4, 2015 to review the proposal. Other persons at the field review included Bloom representatives Lynne Connors, and Richard Procanik; John Kerekes representing Home Depot; the City of Norwalk Assistant Director of Planning & Zoning, Michael Wrinn, and Norwalk Assistant Corporation Counsel Brian McCann.

The Home Depot store is located on a 9.75-acre parcel zoned as Business No. 2. Most of the surrounding area to the east, south and west are retail and commercial uses. Properties north of the Home Depot property are residential. The nearest residence is approximately 100 feet north of the proposed fuel cell facility.

Bloom proposes to install the fuel cell within a paved area currently used for storage behind the building on the north side of the property.

The facility would be a 200-kW Bloom solid oxide fuel cell customer-side distributed resources project. The overall dimensions of the fuel cell would be approximately 32 feet 8 inches long, 8 feet 7 inches wide, and 6 feet 9 inches high. The facility would be interconnected to the existing switchgear inside the electrical room at the northeast corner of the Home Depot building. The facility would be fueled by natural gas supplied by Yankee Gas Company via a new gas meter assembly adjacent to the existing building. A gas shut-off valve would also be provided. The new gas service line would branch off of the existing Yankee Gas Company line at the northeast corner of the building.

Visual impact from the proposed project would be minimal as it would be located in a storage area behind the Home Depot building that is surrounded on two sides by a tall wood slat fence and on a third side by a chain link fence with privacy slats. The fuel cell facility would comply with all applicable Department of Energy and Environmental Protection (DEEP) air and water quality standards. As evidenced by a study Bloom submitted on May 1, 2015, the facility would meet DEEP and City of Norwalk noise regulations without the need for sound remediation.

The facility would be remotely monitored by Bloom using software and hardware safety circuits that can detect abnormalities in operation. The fuel cell facility is designed in accordance with American National Standards Institute and Canadian Standards Association (ANSI/CSA) America FC 1-2004 for stationary fuel cell power systems and includes extensive safety control systems, including both automatic and manual shutdown mechanisms that comply with pertinent engineering standards.

The Connecticut Public Utilities Regulatory Authority (PURA), in its Final Decision in Docket No. 12-02-09, determined that Bloom's Energy Server qualifies as a Class I renewable energy source as defined in Conn. Gen. Stat. § 16-1(a)(26)(A).

In February 2015, Bloom's engineering consultant discussed the proposed facility with Norwalk's Planning and Zoning Department Director, Michael Greene. Bloom mailed notification of the project to abutting property owners, City of Norwalk officials, and required state agencies on March 12, 2015. On March 18, 2015, Bloom provided notification of the proposed project to State Representative Fred Wilms who was not notified with the original notification mailing.

The petition contains a letter from Bloom to the City of Norwalk Assistant Director of Planning and Zoning, Michael Wrinn, dated February 6, 2015 that provided an overview of the proposed project, notification that a petition would be filed with the Council and an invitation to review and comment on the site plans in advance of submitting the petition to the Council. Furthermore, the certification of service for this petition indicates notice was provided to the City of Norwalk Mayor, the Director of the Planning and Zoning Department and the Senior Environmental Officer of the Norwalk Conservation Office on March 12, 2015.

The Council received a letter dated April 15, 2015 from Dorothy Wilson, Senior Planner of the City of Norwalk Zoning Commission requesting the petition be denied. The Zoning Commission stated that it wanted to ensure that the proposed fuel cell location is revised so that it does not interfere with site operations and the approved site plan for the Home Depot. The Zoning Commission is concerned that the proposed project would interfere with storage and loading operations at the store; and that Bloom representatives have not met with City staff. The Commission offers the following recommendations: that the facility be moved from the proposed location to another location on the site such as the upper deck of the existing parking structure; or be relocated farther from the residential property line with the appropriate buffering of the adjacent wetlands and residential area; and that any new equipment be enclosed in a noise buffering enclosure and screened from public view with 10-12 foot evergreen plantings. Consultation with the Conservation Commission and Zoning approval is required for modification of approved plans.

Conn. Gen. Stat. §16-50k states in pertinent part, "...the Council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling... the construction and location of any fuel cell unless the Council finds a substantial adverse environmental effect." It is well established that the Council has exclusive jurisdiction over energy facilities in the state and pursuant to Conn. Gen. Stat. §16-50x, "notwithstanding any other provision of the general statutes to the contrary," the Council's decision on any matter related to an energy facility "shall satisfy and be in lieu of all certifications, approvals and other requirements of state and municipal agencies." This includes, but is not limited to, approvals by municipal planning and zoning commissions, wetlands commissions and conservation commissions. The state Supreme Court in *Corcoran v. Connecticut Siting Council*<sup>1</sup> and *Town of Westport v. Connecticut Siting Council*<sup>2</sup> held that Conn. Gen. Stat. §16-50x gives the Council the power to override municipal zoning provisions and in the event of a conflict, the Council's position prevails. The Supreme Court also held that the purpose of the Council, pursuant to its enabling legislation, is to end ad hoc town by town regulation in favor of regulation by the Council.

At the field review on May 4, 2015, Mr. Wrinn stated that landscaping would not be necessary given its already screened location and suggested the use of sediment and erosion controls to mitigate any potential impact to wetlands north and west of the paved area. He also acknowledged the noise study's conclusions.

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<sup>1</sup> *Corcoran v. Connecticut Siting Council*, 284 Conn. 455 (2007)

<sup>2</sup> *Town of Westport v. Connecticut Siting Council*, 260 Conn. 266 (2002)

The City's Planning & Zoning Department remains concerned about Home Depot maintaining an adequate storage area. Currently, items such as plant inventory and racks are overflowing the designated storage area and being placed in areas in both the front and back of the store. The City is concerned about adequate emergency access and the ability of delivery trucks to turn and back into the loading area. The proposed fuel cell would be located in the store's approved storage area, which would require items stored in that area to be placed elsewhere. Bloom will work with Home Depot to resolve the issue of adequate storage. Since Bloom will need a Building Permit from the City to construct the proposed project, the Planning & Zoning Department will have to sign off on the Building Permit.

The proposed installation of the fuel cell is not expected to have any substantial adverse environmental impacts. It would reduce the emission of air pollutants that contribute to smog, acid rain, and global climate change. It would also contribute to the state's use of renewable energy.

Staff recommends approval with a condition that the Council receive a copy of the Building Permit sign off from the Planning & Zoning Department on the Bloom fuel cell project.

Aerial view of Home Depot property.

