

PETITION NO. 1184 - Beacon Falls Energy Park, LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, operation, and maintenance of a 63.3 Megawatt AC fuel cell facility located on Lopus Road, Beacon Falls, Connecticut.	} Connecticut } Siting } Council
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January 7, 2016

Decision and Order

Pursuant to Connecticut General Statutes § 16-50k(a) and Connecticut General Statutes §4-176 and the foregoing Findings of Fact and Opinion, the Connecticut Siting Council (Council) finds that the effects associated with the construction, maintenance, and operation of a 63.3 megawatt fuel cell facility in the Town of Beacon Falls would not have a substantial adverse environmental effect, would meet all applicable U.S. Environmental Protection Agency and Connecticut Department of Energy and Environmental Protection (DEEP) Ambient Air Quality Standards and Water Quality Standards, would be in accordance with the goals of Connecticut’s renewable energy policy, and therefore, would not require a Certificate of Environmental Compatibility and Public Need.

Unless otherwise approved by the Council, the facility shall be constructed, operated, and maintained substantially as specified in the Council’s record in this matter, and is subject to the following conditions:

1. The Petitioner shall prepare a Development and Management (D&M) Plan for the project in compliance with Sections 16-50j-60 through 16-50j-62 of the Regulations of Connecticut State Agencies. The D&M Plan shall be served on the Town of Beacon Falls for comment, and all parties and intervenors as listed in the service list, and submitted to and approved by the Council prior to the commencement of facility construction and shall include:
 - a) a final plan(s) of site development to include specifications for the fuel cell facility including infrastructure, electrical equipment, equipment compound, access and maintenance roads, utility connections, sound mitigation, stormwater control, wastewater infiltration basins, facility fencing with less than two inch mesh, and landscaping;
 - b) construction plans for site clearing, grading, sound mitigation, landscaping, water drainage, stormwater control, and erosion and sedimentation controls consistent with the 2002 Connecticut Guidelines for Soil Erosion and Sediment Control, as amended;
 - c) reduction in the amount of paved surfaces within the fuel cell compound, if feasible;
 - d) provisions for improving safety at the access drive entrance on Lopus Road;
 - e) an analysis of the proper placement of the sound mitigation barrier to reduce noise from the fuel cell facility and to reduce the potential for highway sound reflection to the Gruber Road neighborhood;
 - f) provisions for the excavation and characterization of soils within the former disposal area on the property, as identified in the Phase 1 Environmental Site Assessment report dated August 5, 2015;
 - g) provisions for a Eastern Hognose Snake Protection Program that includes Department of Energy and Environmental Protection recommended construction practices;
 - h) submission of correspondence from the Department of Energy and Environmental Protection, if applicable, regarding final comment on the Field Habitat Assessment Report dated August 5, 2015;
 - i) construction work hours;

- j) submission of relevant portions of the Title V and New Source Review air permit applications that include a detailed analysis of alternative technologies, operational methods and/or fuels that can be employed at the facility to reduce greenhouse gas emissions to the greatest practical extent; and
 - k) a facility and associated infrastructure decommissioning plan.
2. The fuel cell facility shall be constructed in compliance with Public Act 11-101, An Act Adopting Certain Safety Recommendations of the Thomas Commission.
3. Unless otherwise approved by the Council, if the facility authorized herein is not fully constructed within three years from the date of the mailing of the Council's decision, this decision shall be void, and the facility owner/operator shall dismantle the facility and remove all associated equipment or reapply for any continued or new use to the Council before any such use is made. The time between the filing and resolution of any appeals of the Council's decision shall not be counted in calculating this deadline. Authority to monitor and modify this schedule, as necessary, is delegated to the Executive Director. The facility owner/operator shall provide written notice to the Executive Director of any schedule changes as soon as is practicable.
4. Within 45 days after completion of all construction, the Council shall be notified in writing that construction has been completed.
5. The Petitioner shall maintain the facility and associated equipment and related infrastructure in a reasonable physical and operational condition that is consistent with this Decision and Order and the approved D&M Plan for the project.
6. The Petitioner, or its successor, shall provide the Council with not less than 30 days written notice when the facility will cease operation.
7. 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.
8. 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.
9. Any request for extension of the time period referred to in Condition 3 shall be filed with the Council not later than 60 days prior to the expiration date of said time period and shall be served on all parties and intervenors, as listed in the service list, and the Town of Beacon Falls. Any such request for extension shall state the reason(s) for which an extension is being sought.
10. This Declaratory Ruling may be transferred, provided both the facility owner/operator/transferor and the transferee are current with payments to the Council for their respective annual assessments and invoices under Conn. Gen. Stat. §16-50v. In addition, both the facility owner/operator/transferor and the transferee shall provide the Council with a written agreement as to the entity responsible for any quarterly assessment charges under Conn. Gen. Stat. §16-50v(b)(2) that may be associated with this facility.

By this Decision, the Council disposes of the legal rights, duties, and privileges of each party named or admitted to the proceeding, as listed in the Service List dated November 4, 2015, in accordance with Section 16-50j-17 of the Regulations of Connecticut State Agencies.