



STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL
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September 27, 2018

Paul R. Michaud, Esq.
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RE: **PETITION NO. 1293** - Eversource Energy petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for all transmission facility asset condition maintenance improvements to comply with the updated National Electric Safety Code clearance requirements. **Sub-petition BR-02_Bethel_Redding. Town of Redding Request for Party Status and Motion for Hearing.**

Dear Attorney Michaud:

During a public meeting of the Connecticut Siting Council (Council) held on September 27, 2018, the Council denied the Town of Redding's Request for Party Status and Motion for Hearing that were submitted on September 26, 2018.

Enclosed is a copy of the staff report, dated September 27, 2018.

Thank you for your attention and cooperation.

Sincerely,

Robert Stein
Chairman

RS/MAB/laf

Enclosure: Staff Report dated September 27, 2018

c: Jeffery D. Cochran, Esq., Senior Counsel, Eversource Energy
Kathleen M. Shanley, Manager – Transmission Planning, Eversource Energy



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Sub-petition No. 1293 –BR-02 (Bethel-Redding)

Eversource Energy

Statewide – National Electrical Safety Code Transmission Line Maintenance Activities

Staff Report

September 27, 2018

On March 2, 2017, the Connecticut Siting Council (Council) received a Petition (Petition) from The Connecticut Light and Power Company, d/b/a Eversource Energy (Eversource) for a Declaratory Ruling that no Certificate of Environmental Compatibility and Public Need is required for all statewide transmission line maintenance activities to comply with the updated National Electrical Safety Code (NESC) standards, including, but not limited to, conductor clearance requirements. The NESC is the authoritative code for ensuring the continued practical safeguarding of persons and utility facilities during the installation, operation and maintenance of electric power and communications utility systems, including substations, overhead lines and underground lines.

To comply with the 2017 NESC conductor clearance requirements, Eversource proposed to replace compromised wood structures exhibiting age, weathering, cracking, splitting, rot and woodpecker damage with weathering steel structures that are similar in appearance with no more than a 10-foot increase in structure height of some of the new replacement structures to comply with NESC conductor clearance requirements, as well as installation of new foundations for the replacement structures and relocation of existing lines to the new replacement structures. **Structure replacements that do not require an increase in height to comply with the NESC are not subject to the Council's jurisdiction.**

On March 31, 2017, the Council issued a declaratory ruling for the statewide transmission line maintenance activities that require an increase in height of the replacement structures to comply with the NESC, including the approval to replace compromised wood structures with weathering steel structures, subject to two conditions:

1. Eversource shall file with the Council a sub-petition for each site-specific transmission line maintenance activity; and
2. Eversource shall provide notice to the town(s) and abutting property owners of the proposed transmission line maintenance activity with a copy of the site-specific sub-petition indicating that comments or concerns should be submitted to the Council within 30 days of the date that the sub-petition is sent to the town(s) and abutting property owners.

On August 24, 2018, Eversource submitted a sub-petition to replace 22 wood structures with weathering steel structures in existing right-of-way (ROW) along a portion of the existing 1565 transmission line extending from Plumtree Substation in Bethel to Peaceable Substation in Redding. In its sub-petition and consistent with condition no. 1 of the Council's March 31, 2017 declaratory ruling, Eversource identified the location of each structure to be replaced that requires an increase in height and the location of each replacement structure; described the maintenance activity and included site drawings and plans depicting current field conditions and access routes to areas of the maintenance activities; included representative photo simulations of the weathering steel replacement structures and photographs of the compromised conditions of the structures to be replaced; detailed the potential environmental effects of construction relative to wetlands and watercourses, flood zones, Department of Energy and Environmental Protection Natural Diversity Database (DEEP NDDB) areas, vegetation management and a mitigation plan for revegetation and site stabilization.

In compliance with condition no. 2 of the Council's March 31, 2017 declaratory ruling, Eversource provided proof of notice to the Towns of Bethel and Redding and 30 abutting property owners. It noted that Eversource briefed officials in the Towns of Bethel and Redding in early August 2018, met with the Town of Redding to provide additional details on the proposed project on August 9, 2018 and attended a public meeting to present details of the project and answer questions in the Town of Redding on August 13, 2018. It also noted the Town of Redding's preference for galvanized steel structures.

On September 10, 2018, the Town of Redding submitted a request for limited appearance and a 30-day extension to submit comments regarding an alternative to the approved weathering steel replacement structures. On the same date, the Council granted the Town of Redding's request and extended the time to comment to October 24, 2018. On September 11, 2018, Eversource submitted a request for reconsideration of the Council's grant of the 30-day extension of time for comment on the basis that the Council approved weathering steel structures to replace the wood structures and the schedule to perform the replacement work, including, but not limited to, planned electrical outages from November 15 through December 19. Balancing the interests of both parties, Eversource's request was granted and the comment deadline was changed to October 4, 2018.

On September 26, 2018, the Town of Redding filed a request for party status and a request for a public hearing. Contrary to the representation in the request, the sub-petition is not an "amendment to the original petition for the Bethel to Redding project." Rather, it is a properly filed request to conduct site specific transmission line maintenance activities within existing ROW along an existing electric transmission line to comply with the NESC conductor clearance requirements under Petition 1293 and the sub-petition is compliant with the conditions of the Council's March 31, 2017 declaratory ruling in Petition 1293.

In its request, the Town states that the transmission line maintenance activities would substantially affect the town and abutters due to the up to 9-foot increase in height of some of the replacement structures, access routes, large work pads and other temporary construction impacts. The Town also states that the maintenance activities should conform to the Town's land use regulations, alleges that certain property owners did not get notice and that detailed information on the plan as to where the replacement structures would be located is lacking, among other allegations of adverse impacts to private property owners along the existing ROW over which the Council does not have jurisdiction.

Pursuant to Connecticut General Statutes (CGS) §16-50i and §16-50x, the Council has exclusive jurisdiction over electric transmission lines in the state, including the location and modifications to the facilities. In 1997, the Town of Redding filed an appeal against the Council alleging the Council's grant of a certificate for a cell tower was unconstitutional, exceeded the power of the Council and violated the Town's land use regulations.¹ The Appellate Court dismissed the Town's appeal finding that the Council has exclusive jurisdiction over facilities defined in CGS §16-50i and the Town's land use regulations do not apply to these facilities.

With regard to the allegation of lack of notice, as described above, **structure replacements that do not require an increase in height to comply with the NESC are not subject to the Council's jurisdiction.** Therefore, any structures along the same existing ROW of the existing transmission line that do not require an increase in height to comply with the NESC are not included in Eversource's sub-petition. **Only the 22 structures that require an increase in height to comply with the NESC are subject to the Council's jurisdiction.** There appears to be confusion relative to the segment of the maintenance activities that are jurisdictional to the Council and the segment of the maintenance activities that are not jurisdictional to the Council. Per the 7 detailed map sheets submitted with Eversource's sub-petition, the 30 abutting property owners to the segment of existing ROW where the 22 structures would be replaced with structures no more than 9 feet taller than the existing structures were notified.

¹ *Town of Redding v. Connecticut Siting Council*, 45 Conn. App. 620 (1997).

Furthermore, the 7 detailed map sheets submitted with Eversource's sub-petition specifically identify the locations of existing structures, the locations of existing structures to be removed, the locations of proposed replacement structures, existing and proposed access routes, as well as access routes to be improved and proposed alternate access routes, hiking trails, work pads, temporary construction matting, delineated wetland boundaries, delineated watercourse boundaries, open water, DEEP NDDB areas, flood zones, existing ROW, Eversource-owned property boundaries, parcel boundaries, line list numbers of abutting property owners and municipal boundaries. Any agreements with private property owners relative to access or disagreements with private property owners relative to encroachment are not subject to the Council's jurisdiction.

Due to its interstate nature, electric transmission is subject to a multitude of mandatory federal and regional electric reliability standards, including, but not limited to, the NESC. Failure to comply with these mandatory electric reliability standards can result in penalties, sanctions or mandated remedial actions. Costs of non-compliance and the burden of compromised electric reliability are borne by the electric ratepayers of the state. Electric transmission lines are the backbone of the North American electric grid. Electric transmission lines in Connecticut impact power flows throughout the 6 state New England region and faults on an electric transmission line in Connecticut could produce cascading effects on other system elements throughout the region.

The Council's charge under the Public Utility Environmental Standards Act is to balance the public need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and the ecology of the state. Therefore, based on the foregoing, Council staff recommends the Town of Redding's request for party status and request for a public hearing be denied.