

# STATE OF CONNECTICUT

## CONNECTICUT SITING COUNCIL

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October 5, 2018

Julia Pemberton, First Selectman  
Margaret O'Donnell, Selectman  
Michael Thompson, Selectman  
Town of Redding  
Town Office Building  
100 Hill Road  
P.O. Box 1028  
Redding, CT 06875

RE: **PETITION NO. 1293-** Eversource Energy 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 Electrical Safety Code clearance requirements. **BR-02 (Bethel-Redding)**

Dear First Selectman Pemberton, Selectman O'Donnell and Selectman Thompson:

The Connecticut Siting Council (Council) is in receipt of your October 4, 2018 correspondence concerning Eversource Energy's above-referenced request for approval to conduct transmission line maintenance activities to comply with the updated National Electrical Safety Code (NESC) standards on an existing electric transmission line that traverses the municipalities of Bethel and Redding.

The Town of Redding (Town) reiterates concerns regarding the replacement of existing wood transmission structures with "much larger and taller" steel transmission structures. As clearly described in the narrative and clearly depicted in the photo simulations and on the mapsheets of the Eversource Energy (Eversource) sub-petition submitted to the Council, the Towns of Bethel and Redding, and abutting property owners on August 24, 2018, the replacement structures are of the same design as the existing structures (H-frame) with an average height increase of approximately 5 feet, but no more than 9 feet. These replacement structures are not "much larger and taller" than the existing structures. A copy of the sub-petition is enclosed.

The Town also reiterates concerns regarding the installation of work platforms and replacement structures within 15 feet of the existing structures, noting potential impacts to abutting property owners. However, Eversource's sub-petition indicates work activities would take place in areas within Eversource's property and existing right-of-way (ROW). As the Town notes, an issue with an abutting property owner's septic system was resolved, but according to Eversource's September 27, 2018 Objection to the Town's request for party status and motion for a hearing (Objection), the septic system was installed within Eversource's existing ROW, an encroachment issue for which the Council does not have any authority or jurisdiction. As more fully described in the Council's September 27, 2018 staff report, any disagreements with private property owners relative to encroachment are not subject to the Council's jurisdiction. A copy of the staff report is enclosed.

The Town notes it "could not find any evidence of the sub-petition on the Council's website or dockets page." This sub-petition is a request under a declaratory ruling (Petition No. 1293) that was issued by the Council on March 31, 2017 and it is on the petitions page of the Council's website at the following link: <https://www.ct.gov/csc/cwp/view.asp?a=2397&q=590804>.



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With regard to statements about “lack of communication” from Eversource regarding the plan to replace the compromised existing structures, the record reflects Eversource provided proof of notice of the project to the Towns of Bethel and Redding and 30 abutting property owners. A copy of the sub-petition was provided with the notice and 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.

The Town’s correspondence references residents were informed by Eversource that the “preparatory and other work relating to the transmission structure project would begin on October 1, 2018.” As stated by Eversource in its September 27, 2018 Objection, Eversource began civil construction work on October 1 for all structure replacements that are not subject to the Council’s jurisdiction. As described in the Council’s September 27, 2018 staff report and Eversource’s Objection, **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.


The Town also expresses disappointment with the Council’s denial of its request for party status and motion for a public hearing. However, the Council’s statutory charge under the Public Utility Environmental Standards Act is to balance the need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and to promote energy security. Given that delay in replacing these structures would result in continuing risk of structure failure, thereby compromising reliability of the transmission line, and result in increased costs to the ratepayers of the entire state, these structure replacements are non-discretionary and as more fully 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.** In its sub-petition, Eversource clearly notes that the asset condition work that prompted the submittal of Petition No. 1293 is ubiquitous across the state.

The Council established a 30-day period from the date notice of the petition is provided to the towns and abutting property owners for the submission of any comments or concerns about the project. In response to a request from the Town, and in balancing the Town’s request with Eversource’s schedule that includes, but is not limited to, planned electrical outages from November 15 through December 19 to complete the replacement structure work, the Council extended the deadline date for comments on this project from September 24, 2018 to October 4, 2018.

In reaching a final decision on a request under Petition No. 1293, the Council carefully considers whether the request complies with the NESC standards. 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. Compliance with the NESC standards requires Eversource to evaluate the integrity of its utility structures and implement repair, upgrade or replacement in order to ensure the safe and reliable transmission of electric power to the ratepayers of the state.

Thank you for your interest and concern in this very important matter.

Sincerely,



Melanie A. Bachman  
Executive Director

MAB/RDM/lm

c: Council Members  
Kathleen Shanley, Eversource Energy  
Jeffery Cochran, Esq., Eversource Energy  
Paul R. Michaud, Esq., Michaud Law Group

Encl: Eversource Sub-petition BR-02, August 24, 2018  
Council Staff Report, September 27, 2018

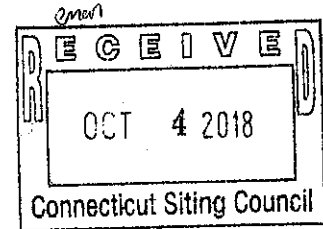
# REDDING



# CONNECTICUT

**DELIVERED BY U.S. MAIL and E-MAIL**

Melanie Bachman, Esq.  
Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051



**Re: Sub-Petition No. 1293-BR-02 - Eversource Energy Petition For Declaratory Ruling That No Certificate Of Environmental Compatibility And Public Need Is Required For Transmission Facility Asset Condition Maintenance Improvements To Comply With The Updated National Electric Safety Code Clearance Requirements**

Dear Attorney Bachman:

The Town of Redding, Connecticut ("Town") was frustrated that the Connecticut Siting Council ("Council") denied the Town's request for party status and the opportunity for a fair hearing in the Sub-Petition proceeding regarding Eversource Energy's ("Eversource") proposal to replace 22 existing wood transmission structures and replace them with much larger and taller (61 feet to 83 feet in height) steel structures.

The Town is concerned that the much larger and taller proposed steel transmission structures that would be installed on huge work platforms up to 15 feet away from the existing wood transmission structures will substantially and negatively affect the Town and its resident abutters. For example, although Eversource has produced little details, we do know that Eversource had proposed to install a work platform and steel transmission structure only 10-15 feet from a Town resident's backyard house deck that would have destroyed the resident's existing septic system. The resident spoke-up and the septic issue was resolved, but what about the other 21 abutter residents, and how will the placement of the steel structures negatively affect their properties?

The Town is also concerned regarding the lack of communication from Eversource to the Town and the abutter residents regarding the utility's plan to install the steel transmission structures. Eversource attended a public Town meeting in mid-August 2018 and admitted to the audience that word of the transmission structure project – "leaked" – and the utility was forced to acknowledge the proposed project sooner than it intended. In other words, it appears Eversource intentionally planned on moving forward with the steel transmission structure project with as little notice and information as possible to the Town and abutting property owners. Eversource was compelled to disclose its plan only because the information was mistakenly released to Town officials. Just as frustrating, when the Town attempted to learn more about Eversource's transmission structure plan outlined in its Sub-Petition filed with the Council, the Town could not find any evidence of the Sub-Petition on the Council's website or dockets page.

Furthermore, within the past few days, many resident abutters of the Town were informed by Eversource for the first time that preparatory and other work relating to the transmission structure project would begin on October 1, 2018. The Town believes that much of this work will prove highly disruptive and have potentially long-term negative effects on the Town and its residents. The Town is concerned that Eversource is pushing ahead with the steel transmission structure project prematurely and without regard for the Town, abutting property owners, or even the Council's procedural process.

To address the Town's concerns regarding Eversource's proposed transmission structure project, the Town had requested that a fair hearing should be held to determine if the proposed steel transmission structures would have a substantial adverse environmental effect on the Town and its resident abutters, and to explore reasonable alternatives to the 22 massive steel structures. This reasonable request by the Town was summarily denied by the Council.

In the alternative to a formal hearing, the Town urges the Council to order Eversource to provide and present to the Town and its residents a comprehensive plan for the replacement each of the 22 steel transmission structures and allow the Town to make recommendations to improve the Plan. For example, at a minimum the plan should include details regarding the exact placement, height, and effect on the abutter resident for each of the 22 steel transmission structures. Eversource should be compelled to present this plan to the Town and abutters before any of the work on the steel transmission structures commences. In addition to assisting the abutters, with this knowledge the Town may recommend a reasonable mitigation plan for its designated "scenic roads" where the poles would be visible and have a significant impact on the view from the road that the scenic status was intended to protect. In this situation, the Town and the Redding Planning Commission would request Eversource to omit the stairs and have dogwood or low growing evergreens planted to shield the lower portion of the transmission structure from the road.

In conclusion, although the Council's denial of the Town of Redding's request for party status and a fair hearing regarding the proposed replacement of the 22 steel transmission structures was highly disappointing to the Town, the Town is grateful for the opportunity to present written comments and requests that Eversource be required to present a comprehensive transmission structure replacement plan to the Town and its resident abutters and allow the Town to make recommendations to improve the Plan before work commences.

Respectfully submitted,

/s/ Julia Pemberton  
Julia Pemberton  
First Selectman

s/ Margaret L. O'Donnell  
Margaret L. (Peg) O'Donnell  
Selectman

/s/ Michael Thompson  
Michael Thompson  
Selectman

Service List: Kathleen M. Shanley, Manager, Transmission Planning, Eversource Energy  
Jeff Cochran, Senior Counsel, Legal Department, 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.<sup>1</sup> 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.

<sup>1</sup> *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 NDDDB 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.