

Re: PETITION NO. 1120 – The United Illuminating Company petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed modifications to the Hawthorne Substation located at 180 Hawthorne Drive, Fairfield, Connecticut.

INTERVENOR TOWN OF FAIRFIELD PROPOSED FINDINGS OF FACT AND BRIEF

Intervenor Town of Fairfield respectfully requests that the Siting Council find the following facts:

1. The Hawthorne Substation (“Substation”), owned and operated by the United Illuminating Company (“UI”), is a power transmission facility the purpose of which is to reduce the voltage of electricity coming from high-voltage transmission lines located near the substation, and allow said electricity to be distributed locally.
2. The substation is situated in a residential neighborhood in Fairfield, Connecticut. It is bounded by property owned by General Electric Company and by a number of residences.
3. Access to the substation is provided by means of a driveway located in an easement given to the United Illuminating Company, which easement runs over property known as 160 Hawthorne Drive.
4. Said easement abuts property owned by Gary Azarian, and known as 192 Hawthorne Drive.
5. The owner of 192 Hawthorne Drive is not listed by United Illuminating Company as having received notice of these proceedings.
6. There are a number of residences which abut the substation to the south.
7. The substation is visible from the residences which abut the substation to the South.
8. There is a potential for light trespass from the substation, affecting the abutting residences.
9. The substation could be an attraction to trespassers.
10. Adequate shielding or screening is necessary to shield the abutting residents from noise and light pollution.
11. There has been inadequate communication between the United Illuminating Company and the neighbors of the substation; better communication is necessary.
12. The Eastern Box Turtle, a State-designated Species of Special Concern, may be found in the vicinity of the proposed project. If the project is approved, UI shall comply with such EBT protective measures as may be recommended by Connecticut DEEP.

13. Work on the project, conducted at other than reasonable times, would be disruptive to the neighbors.

14. It would be in the best interest of all concerned parties, if the neighbors were consulted in the development of the D & M plan.

BRIEF

Although the siting council has broad discretion over its cases, that discretion is not unlimited. A decision must not be “arbitrary, capricious or characterized by an abuse of discretion” *Corcoran v. Connecticut Siting Council*, 50 Conn. Supp. 443, 447 (Super. Ct. 2006)

The Town of Fairfield respectfully requests that the Siting Council carefully examine the concerns of the neighbors, as expressed in the filings of Intervenors Arthur Tournas and Vincent Giandurco. They have made detailed suggestions regarding lighting, emissions, fencing, screening and other matters. They represent those who stand to be most affected by changes to the substation.

In addition to the concerns expressed by the neighbors, the Town, as expressed in the comments of First Selectman Michael Tetreau, is particularly concerned about the process that was followed in this matter. There is a perception that petitioner was not as transparent in its dealings with the neighbors as it could have been. While shortcomings in this area may not, in and of themselves, be a reason to deny the petition, they can certainly create a perception that the neighbors are not being dealt with fairly, and should be of concern to the council.

Similarly, problems with notice to the abutters create a negative perception. In this case, it is claimed that, by virtue of abutting an easement which is used for access to the substation, and thus a part of the subject property, the Azarians, owners of property at 192 Hawthorne Street, were entitled to statutory notice. (See filing of Intervenor Town of Fairfield) If this claim is found by the Siting Council to be true, it would form a basis for the denial of the petition, or at least an order that these residents receive notice and a chance to be heard.

Another concern is that of the potential for light trespass. The neighbors have made a number of suggestions regarding lighting. Because they are the ones most affected by this factor, it is requested that their requests be given serious consideration and incorporated into any plan.

It is likewise requested that the Siting Council require the maximum amount of screening for the site.

In keeping with other decisions rendered by this Commission, if the Siting Council approves the petition, it is requested that hours during which work may be performed be limited to those that cause the least disruption to the neighbors.

It is also requested that if the petition is approved, provisions to protect the Eastern Box Turtle be incorporated in the Council's order, as it has done in other cases.

If the petition is approved, UI will submit a D & M plan for approval by the Council. It is requested that the Council order that UI confer with the neighbors in the development of said plan, and that the neighbors be permitted to submit comments regarding said plan prior to approval by the Council.

On behalf of the Intervenor Town of Fairfield I wish to thank the Siting Council, and its staff, for the help it has provided, and the attention it has given to this matter.

TOWN OF FAIRFIELD

BY 

Stanton H. Lesser, Esq.
One Eliot Place
Fairfield, CT. 06824
(203) 336-1811