

FRANCA L. DeROSA
ATTORNEY-AT-LAWDirect: 860-509-6539
fderosa@brownrudnick.comCityPlace I
185 Asylum
Street
Hartford
Connecticut
06103
tel 860.509.6500
fax 860.509.6501

July 29, 2010

VIA HAND DELIVERY AND ELECTRONIC MAILDaniel F. Caruso, Chairman
Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: Docket No. 187 – PDC-El Paso Milford LLC Certificate of Environmental Compatibility and Public Need for the Milford Power Project Located Off of Oronoque Road in Milford, Connecticut – Petition of Milford Power Company, LLC to Modify the Decision and Order in Docket No. 187 to Allow Milford Power, LLC to Suspend Its Backup Fuel System

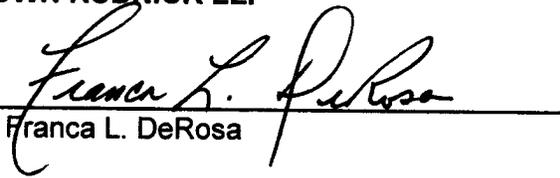
Dear Chairman Caruso:

Enclosed are an original and twenty-five (25) copies of the Petition of Milford Power Company, LLC (“Milford Power”) to Modify the Decision and Order in Docket No. 187 to Allow Milford Power, LLC to Suspend Its Backup Fuel System (the “Petition”). Also enclosed is a check for the \$625 filing fee.

In the Petition, based on the changed conditions discussed therein and pursuant to Conn. Gen. Stat. § 4-181a(b), Milford Power requests that the Connecticut Siting Council modify the Decision and Order to allow Milford Power to suspend its low sulfur (0.05%) distillate fuel oil system, eliminating Milford Power’s immediate availability to operate on fuel oil.

Please contact me with any questions.

Very truly yours,

BROWN RUDNICK LLPBy: 

Franca L. DeRosa

FLD/mek
Enclosure
cc: Service List

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

PDC-EL PASO MILFORD LLC CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE MILFORD POWER PROJECT LOCATED OFF OF ORONOQUE ROAD IN MILFORD, CONNECTICUT : DOCKET NO. 187
:
:
:
: JULY 29, 2010

**PETITION OF MILFORD POWER COMPANY, LLC
TO MODIFY THE DECISION AND ORDER IN DOCKET NO. 187
TO ALLOW MILFORD POWER, LLC TO SUSPEND ITS BACKUP FUEL SYSTEM**

I. INTRODUCTION

Pursuant to Conn. Gen. Stat. § 4-181a(b), Milford Power Company, LLC (“Milford Power”) hereby petitions the Connecticut Siting Council (the “Council”) to modify the Decision and Order in Docket No. 187 (“Decision and Order”) based on changed conditions. Specifically, based on the changed conditions discussed herein, Milford Power respectfully requests that the Council modify the Decision and Order to allow Milford Power to suspend its low sulfur (0.05%) distillate fuel oil (“Fuel Oil” or “Backup Fuel”) system, eliminating Milford Power’s immediate availability to operate on Fuel Oil.

As discussed below, substantial increases in natural gas supply and improvements in natural gas pipeline infrastructure in New England, considerable investment in and improvements to the Connecticut electrical transmission grid, and the construction of substantial new power generation facilities (of varying fuel types) in Connecticut and New England have substantially increased the reliability of Connecticut’s natural gas and electric energy supply. As a result, Milford Power no longer needs the ability to immediately switch to Fuel Oil for reliability or economic purposes.

Conn. Gen. Stat. § 4-181a(b) authorizes an administrative agency “[o]n a showing of changed conditions” to modify its prior decision. As demonstrated below, these changed conditions since the issuance of the Decision and Order justify its modification.

II. BACKGROUND

On January 8, 1999, the Council issued a Certificate of Environmental Compatibility and Public Need (“Certificate”) to PDC-El Paso Milford LLC (Milford Power’s predecessor) to construct, operate and maintain a two-unit 544-megawatt natural gas-fired combined-cycle electric generating facility in Milford, Connecticut. Unit 1 commenced commercial operation on natural gas in January 2004, and Unit 2 commenced commercial operation on natural gas in May 2004.

Condition 1(e) of the Council’s Decision and Order issuing the Certificate required that “[t]he project shall operate on natural gas, except during curtailment of natural gas when the project may operate on low sulfur (0.05 percent) distillate fuel oil as permitted by the DEP.” This condition was subsequently amended by the Council on August 27, 2004, at the request of Milford Power, to provide that “[t]he project shall operate on natural gas, except the project may operate on low sulfur (0.05 percent) distillate fuel oil as permitted by the DEP.”

Condition 2(c) of the Council’s Decision and Order issuing the Certificate requires:

adequate oil storage, unloading, and pumping facilities including tanker queuing and turn-around areas sufficient to allow for the arrival of five trucks per hour, to ensure continuous burn on oil for up to 720 hours per year during natural gas curtailment.

By letter dated November 15, 2004, Milford Power notified the Council that as of November 2, 2004, Unit 2 was capable on operating on Fuel Oil, as well as natural gas. By letter

dated May 26, 2005, Milford Power notified the Council that as of May 7, 2005, Unit 1 was also capable on operating on Fuel Oil and natural gas.¹

III. COMMUNICATIONS

Communications regarding this Petition should be directed to the following:

Michael Cartney
Vice President and Plant Manager
Milford Power Company, LLC
55 Shelland Street
Milford, CT 06460
203-882-1010 ext. 227 (tel)
203-882-1515 (fax)
mcartney@cpv.com

Franca L. DeRosa
Philip M. Small
Brown Rudnick LLP
CityPlace I, 185 Asylum Street
Hartford, CT 06103-3402
(860) 509-6539 (tel)
(860) 509-6501 (fax)
fderosa@brownrudnick.com
psmall@brownrudnick.com

IV. DISCUSSION

A. INTRODUCTION

Pursuant to Conn. Gen. Stat. § 4-181a(b), the Council may modify a final decision at the request of any person or on the Council's own motion, on a showing of "changed conditions." Specifically, § 4-181a(b) provides "[o]n a showing of changed conditions, the agency may . . . modify the final decision, at any time, at the request of any person" See *Fairfield v. Connecticut Siting Council*, 37 Conn. App. 653, 668 (1995), *rev'd on other grounds*, 238 Conn. 361 (1996) ("The statute clearly allows a final decision from a contested case to be opened and modified upon a showing of changed conditions."); see also *Sielman v. Connecticut Siting Council*, No. CV020517272S (Conn. Super. Ct. Jan. 14, 2004). On April 7, 2009, pursuant to

¹ On June 24, 2010, Milford Power met with the Connecticut Department of Environmental Protection ("DEP") to discuss its proposed suspension of the Backup Fuel System. Milford Power has incorporated and addressed comments provided by the DEP during that meeting in this Petition.

Conn. Gen. Stat. § 4-181a(b) and as a result of changed conditions, the Council modified Condition 1(b) of Milford Power's Decision and Order regarding the use of potable water as a primary cooling source.

As demonstrated below, changed conditions since the issuance of the Decision and Order justify the modification of the Decision and Order to allow Milford Power to suspend its Backup Fuel system. Specifically, Milford Power requests that the Council modify the Decision and Order to allow Milford Power to suspend its Backup Fuel system, eliminating Milford Power's immediate availability to operate on Fuel Oil. Instead, Milford Power will be obligated to recommission and make available the Backup Fuel system within 120 days after the occurrence of a second natural gas delivery disruption of five or more consecutive days to the Milford Power facility in any five-year period. Milford Power may also recommission the Backup Fuel system at its option should Milford Power determine that conditions warrant its recommissioning.

B. CHANGED CONDITIONS JUSTIFY MODIFICATION OF THE DECISION AND ORDER

Milford Power has not consumed Fuel Oil in its combustion turbines since the units achieved commercial operation in 2004, except for short term testing and commissioning purposes. Since achieving commercial operation in 2004, there has been no extended period of time when natural gas (Milford Power's primary fuel) was not available due to pipeline curtailment. Nor has there been an extended period of time when burning fuel-oil was economically warranted (*i.e.*, a time when the cost of operating on fuel oil taking into account delivered fuel-oil prices and incremental operating costs associated with running on Fuel Oil was less expensive than operating on natural gas). Milford Power's past use of the Backup Fuel

system has been limited to testing and will remain extremely unlikely due to the following changed conditions since the original Decision and Order:

- (i) Substantial increases in natural gas supply and improvements in natural gas pipeline infrastructure in New England and Connecticut that have greatly reduced delivery interruptions;
- (ii) Considerable investment in and improvements to the electrical transmission grid in Connecticut have substantially improved energy delivery reliability to the point where southwest Connecticut is no longer considered a transmission “Congestion Area of Concern” by the U.S. Department of Energy²; and
- (iii) Substantial new power generation facilities (of varying fuel types) have been constructed in New England and Connecticut providing a substantial reserve margin for the foreseeable future.

Milford Power has engaged an independent natural gas and power market expert, R. W. Beck, to evaluate and prepare a report assessing these fundamental changes to the natural gas and power markets and their effects on the need for Milford Power to maintain its Backup Fuel system for reliability purposes. A copy of R.W. Beck’s report is attached to this Petition as Attachment 1.

Milford Power is seeking approval to suspend its Backup Fuel system to simplify its operations, improve its reliability, and lower its operating costs by an average of \$1 million per year. However, Milford Power will not remove Backup Fuel system components from its site

² See U.S. Department of Energy, *National Electric Transmission Congestion Study*, at 52-58 (Dec. 2009), available at http://www.congestion09.anl.gov/documents/docs/Congestion_Study_2009.pdf.

and will not seek to alter its air permit to permanently reduce or eliminate its ability to operate on Fuel Oil.³ Milford Power will also maintain all critical Backup Fuel system components on site, and regularly maintain rotating equipment (such as motors and pumps) so that if the Backup Fuel system is needed in the future, it can be recommissioned. Attached to this Petition as Attachment 2 is a Backup Fuel Oil System Decommissioning & Restoration Plan outlining:

- (i) how components of the Backup Fuel system will be laid up (and stored on site if removed from service);
- (ii) a description of the periodic exercise and maintenance of critical system components during layup; and
- (iii) an outline of the timing and steps required to restore or recommission the Backup Fuel system for operations after the layup.

At the June 24, 2010 meeting with DEP described in footnote 1, DEP asked several questions regarding Milford Power's proposal to suspend its Backup Fuel system. DEP asked whether Milford Power would be using any chemicals during the decommissioning and layup processes that are not currently used. According to Alstom Power, Inc. ("Alstom"), Milford Power's original equipment manufacturer, some additional desiccants and solvents may be used. However, none of them would be discharged into the facility's wastewater treatment system. The use of solvents would be primarily in the decommissioning phase for flushing and cleaning. These would be disposed of by a licensed contractor. Desiccants would be used primarily in the layup phase and would be removed and disposed of properly, if the fuel oil system was re-

³ Based on Milford Power's discussions with DEP staff on July 26, 2010, no revisions are needed to Milford Power's New Source Review Permit to Construct and Operate a Stationary Source in connection with the proposed suspension of Milford Power's Back-Up Fuel system.

commissioned. DEP asked whether revisions to the facility's Spill Prevention, Control, and Countermeasure Plan ("SPCC") would be necessary based on the reduction in on-site oil storage. The SPCC will be revised to reflect the reduction in fuel oil storage. However, the facility will retain its Facility Response Plan. DEP asked how the unused oil in the tank will be addressed. Milford Power plans to sell the oil back to its original supplier. Lastly, DEP asked how the tank heel material will be disposed. Milford Power will hire a licensed contractor to properly dispose of the material.

1. Natural Gas and Power Supply and Infrastructure Changes

In the report in Attachment 1, R.W. Beck evaluated changes in the natural gas and electric markets and infrastructure since 1999, the year that Milford Power received its authorization from the Connecticut Siting Council. R.W. Beck concluded that the supply, delivery, and consequently the reliability of natural gas as a fuel for power generation in Connecticut have all improved significantly since 1999 so that Milford Power no longer needs to maintain its Backup Fuel System for reliability purposes.

R.W. Beck's conclusion is based on several key developments since 1999. These developments include: (i) abundant new supplies of shale gas; (ii) a four-fold increase in LNG maximum available sendout capacity from three additional new regasification terminals; (iii) the locations of these new shale gas and LNG supplies near the New England market areas, which have relieved pipeline constraints, improving conditions for reliable delivery to New England; (iv) significant improvements in the natural gas delivery infrastructure in the northeast U.S., increasing the reliability and cost-effectiveness of transporting gas to Connecticut for power generation; (v) the increased electrical transmission capacity placed in-service in 2006 and 2008,

that dramatically changed the transmission and generation landscape in Southwest Connecticut and provided the area with a robust and reliable transmission system; and (vi) continued development of local generation in Connecticut that has resulted in additional reliability and grid stability for the bulk electric system and, thereby, greatly reduced the vulnerability of Southwest Connecticut to loss of electric supply.

2. Historical Fuel Oil Operations

Milford Power has never operated commercially on Fuel Oil except to test and commission the Backup Fuel system and to perform stack air emissions testing. Milford Power's combustion turbines were commissioned on Fuel Oil in October 2004 and in May 2005. Since that time, Milford Power has followed the recommendations of Alstom to routinely exercise or test the system on a periodic basis. That routine test consisted of the quarterly switchover from natural gas to Fuel Oil while the units were shutting down. The procedure ensured that, on a regular basis, each of the units was run on Fuel Oil and that all components of the Backup Fuel system were operating properly.

In addition, after each major planned outage, Milford Power recommissioned each of the units on Fuel Oil as recommended by Alstom. This recommissioning was successfully performed in October 2007 and April 2008 on each of the units. Recommissioning after a major planned outage is comprised of the following activities:

Cold Commissioning – All auxiliary Fuel Oil equipment (forwarding pumps, oil heaters, water injection pumps, and valves) are functionally tested to ensure they can operate prior to the combustion of fuel oil. The tests are performed by representatives of the turbine manufacturer and can take several days to complete.

Hot Commissioning – The gas turbine is operated at varying loads to monitor the unit's operation and compliance with Milford Power's air permits. Hot commissioning includes the testing of the process of switching back and forth from natural gas to Fuel Oil to ensure all of the equipment and control systems function properly.

The hot commissioning process increases the risk associated with tripping the unit off line and potential unnecessary starts. Unit trips and unnecessary starts increase Milford Power's maintenance fees and can shorten the interval between scheduled maintenance events. To illustrate the difference in reliability, trips and load shedding events on average occur every 30 hours of operation on fuel oil and every 500 hours on natural gas.

The amount of fuel and time necessary to hot commission a unit is estimated by the turbine manufacturer at 300,000 gallons and approximately 30 hours of operation, if there are no delays or setbacks from scheduling with the New England ISO or equipment issues.

Finally, in addition to periodic testing and post-outage commissioning of the system, Milford Power performs routine and preventive maintenance on various components of the Backup Fuel system as part of its normal preventive maintenance program. This maintenance program includes normal preventive maintenance on all of the pumps and motors within the fuel oil system, calibrations of fuel oil meters, and, due to the intermittent operation, draining of water from the system. A chemical treatment program is also required to maintain the quality of the fuel oil in the tank. During planned maintenance on the gas turbine engine, there is a significant amount of time and work associated with the disassembly, inspection, re-assembly, and testing of the piping and instrumentation for the fuel oil system that adds a significant cost.

In spite of maintaining the availability of the Backup Fuel system, Milford Power has never needed to operate the units on fuel oil for reliability purposes. While there have been intermittent and short-term disruptions of natural gas supply on the pipelines from which Milford Power takes its natural gas (including the Iroquois Gas Pipeline, Tennessee Gas Pipeline, and Southern Connecticut Natural Gas, there has never been an extended disruption (*i.e.*, beyond 24 hours in length) that created a situation where Milford Power needed to switch to Fuel Oil either: (a) to meet a commitment to provide electrical energy to the grid that could not be satisfied by purchasing the required energy from the real-time energy market; or (b) to avoid a serious shortfall in electrical supply that could not be handled easily by the ISO New England Inc. (“ISO-NE”), the operator of the interconnected transmission system.

Additionally, as described in the R. W. Beck report, the recent historical relationship between delivered Fuel Oil and natural gas prices has been such that Fuel Oil operations have never been economically justified, nor are they expected to be in the foreseeable future.

In some instances, the Backup Fuel system has actually caused the Milford Power facility to be less reliable than it would otherwise be. There have been six instances, while operating on natural gas, during which a unit has dropped load or tripped off line due to the fuel oil system. The majority of these instances occurred in late 2005 and early 2006. However the last instance occurred in May, 2009. Under normal natural gas operations, Milford Power’s control system is constantly monitoring whether all of the fuel oil valves are in the closed position. When the instrumentation, which monitors the valve’s position, fails, it causes the unit to shed load or trip off-line. As described above, these instances of shedding load and tripping off-line increase maintenance fees and can decrease the maintenance interval for the gas turbine.

The Backup Fuel system is exercised when the unit is scheduled to come off line for economic purposes and fuel oil is burned as the unit comes off line. During these testing events, load shedding and/or the unit tripping off line has occurred on four occasions. Milford Power has a very good reliability record in ISO-NE. However, it will be helpful for Milford Power to focus its resources on maintaining the reliability of primary plant systems rather than on backup systems that rarely if ever operate and that are even less likely to operate in the future.

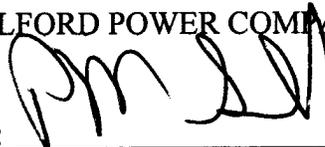
Finally, the elimination of Fuel Oil commissioning and testing will also have the benefit of reducing air emissions. By permit, Milford Power can emit 24.5 times more SO_x, 3.3 times more NO_x, and 1.6 times more CO while operating at baseload on fuel oil as compared to natural gas.

V. CONCLUSION

Based on the foregoing, and pursuant to Conn. Gen. Stat. § 4-181a(b), Milford Power respectfully requests that the Council modify the Decision and Order to allow Milford Power to suspend its Backup Fuel system.

Respectfully submitted,

MILFORD POWER COMPANY, LLC

By: 

Franca L. DeRosa
Philip M. Small
Brown Rudnick LLP
CityPlace I, 185 Asylum Street
Hartford, CT 06103-3402
(860) 509-6539 (office)
(860) 509-6501 (fax)
Its Attorneys

ATTACHMENTS

Attachment 1 – R.W. Beck Report entitled Connecticut and New England Natural Gas and Power Infrastructure Supply Changes, 1999-Present.

Attachment 2 – The Backup Fuel Oil System Decommissioning & Restoration Plan.

**SERVICE LIST
DOCKET NO. 187**

Paul W. Diehl, Esq.
Iroquois Gas Transmission System, L.P.
One Corporate Drive
Shelton, CT 06484

Timothy P. Kober, Esq.
Pillsbury Winthrop Shaw Pittman LLP
1540 Broadway
New York, NY 10036

Michael Cartney
Milford Power Company, LLC
55 Shelland Street
Milford, CT 06460

Anne McCrory, Esq.
Southern Connecticut Gas Company
855 Main Street
Bridgeport, CT 06604

Mr. Tom Favinger
CPV Milford, LLC
c/o Competitive Power Ventures, Inc.
8403 Colesville Road
Suite 915
Silver Spring, MD 20910

James A. Hanley, CCTS
Assistant Vice President
Wilmington Trust Company
Rodney Square North
1100 North Market Street
Wilmington, DE 19890-1605

Stephen Gibelli, Esq.
Assistant General Counsel
Northeast Utilities Service Company
P.O. Box 270
Hartford, CT 06141-0270