

STATE OF CONNECTICUT

SITING COUNCIL

<p>The Connecticut Light and Power Company application for a Certificate of Environmental Compatibility and Public Need for (1) The Greater Springfield Reliability Project consisting of a new 345-kV electric transmission line and associated facilities from the North Bloomfield Substation in Bloomfield to the Connecticut/Massachusetts border, together with associated improvements to the North Bloomfield Substation, and potentially including portions of a new 345-kV electric transmission line between Ludlow and Agawam, Massachusetts that would be located in the Towns of Suffield and Enfield, Connecticut; and (2) the Manchester Substation to Meekville Junction Circuit Separation Project in Manchester, Connecticut.</p>	<p>DOCKET NO. 370</p> <p>October 30, 2008</p>
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**APPLICANT'S MEMORANDUM IN SUPPORT OF
MOTION FOR PROTECTIVE ORDER**

The Connecticut Light and Power Company ("CL&P") hereby respectfully submits this memorandum in support of its Motion for Protective Order (the "Motion") filed on even date herewith, seeking to protect from public disclosure certain sensitive, critical energy infrastructure information ("CEIP") submitted as the CEII Appendix to the Application in this Docket.

I. BACKGROUND

The Motion filed in connection with this memorandum seeks protection for a document that contains CEII. CEII is defined by the Federal Energy Regulatory Commission (FERC) as:

Specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

1. Relates details about the production, generation, transmission, or distribution of energy;
2. Could be useful to a person planning an attack on critical infrastructure;
3. Is exempt from mandatory disclosure under the [Federal] Freedom of Information Act; and
4. Gives strategic information beyond the location of the critical infrastructure.

18 CFR § 388.113(c)(1). In turn, “critical energy infrastructure” is defined as:

Existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

18 CFR § 388.113(c)(2).

The CEII Appendix to the Application in this Docket consists of;

- A. Supplement to Vol. 1, Section F – Project Need: (This supplement provides detailed results of power-flow studies identifying specific weaknesses and vulnerabilities in the Bulk Power Supply system.)
- B. Complete Chapter Six and Appendices A-2 and A-3 of *Report of ICF Resources LLP: Assessment of Non-Transmission Alternatives to the NEEWS Transmission Projects: Greater Springfield Reliability Project*, September 2008 (A copy of this report (the ICF Report), with redactions to Chapter Six and Appendices A-2 and A-3, is included in Vol. 5 of the Application. The full chapter reproduced in the CEII Appendix provides detailed results of power-flow studies identifying specific weaknesses and vulnerabilities in the Bulk Power Supply system.)

The detailed power flow study results disclosed in the CEII Appendix relate to the Bulk Power Supply System in the Greater Springfield and north-central Connecticut areas. That system qualifies as “critical energy infrastructure.” These detailed results identify specific

weaknesses and vulnerabilities of those portions of the system. Such information could be useful to a person planning an attack on critical infrastructure because it discloses specific weakness and vulnerabilities of these relevant systems.

A. FERC Protection of CEII

As historical background, concern regarding CEII arose after the terrorist attacks of September 11, 2001. In response to that event, the Federal Energy Regulatory Commission (“FERC”) implemented procedures to protect information submitted to it that contained CEII. In October 2001, FERC issued a Policy Statement whereby documents containing CEII that previously had been available to the public were removed from easy access. COMM-OPINION-ORDER, 97 FERC ¶61,030, Treatment of Previously Public Documents, Docket No. PL02-1-000 (Oct. 11, 2001), 66 Fed. Reg. 52917 (2001). In order to accomplish this goal quickly, FERC staff identified broad categories of documents that were likely to contain CEII, and removed them from public access. The public was directed to use the Freedom of Information Act (“Federal FOIA”) request procedure to obtain the information. *Id.* Over time, FERC determined that the Federal FOIA process was not well-suited for handling CEII requests, and that in addition, some parties have legitimate needs for CEII that would be exempt from disclosure under the Federal FOIA. 68 Fed. Reg. 9857 (2003) (Supplementary Information to Order 630, 68 F.R. 9870).

In response to these determinations, FERC subsequently issued a number of orders, resulting in the current version of 18 C.F.R. § 388.113(d), which sets forth detailed procedures that must be followed to obtain access to CEII. 18 C.F.R. § 388.113. Order 630, 68 Fed. Reg. 9870 (2003), as amended by Order 630-A, 68 Fed. Reg. 46460 (2003), Order 649, 69 Fed. Reg. 48391, (2004); Order 662, 70 Fed. Reg. 37036 (2005); 71 Fed. Reg. 58276 (2006); 72 Fed. Reg.

63985 (2007). (See, Ex. A hereto) These procedures include investigations as to the identity of the party requesting the information, whether the party has a legitimate or valid need for the information, whether the party poses a security risk or the request should be denied for other reasons, as well as procedures for ensuring that certain requesters sign non-disclosure agreements. See 18 C.F.R. § 388.113(d).

Most recently, in its Order 890, ¶ 404, 72 Fed. Reg. 12,266-01 (issued February 16, 2007) FERC made Transmission Owners such as CL&P responsible for identifying CEII and developing a standard disclosure procedure to facilitate access to it by appropriate entities, which may include a non-disclosure agreement. *See*, Rule 890 Excerpt, Exhibit A hereto. As set forth in Part C below, CL&P has complied with that directive, and has filed the Motion pursuant to that CEII policy.

B. ISO-NE protection of CEII

Significantly, following FERC's lead, ISO-New England Inc. ("ISO-NE"), the entity charged with responsibility for the planning of the New England Bulk Power Supply system, has also adopted CEII restrictions. (*See*, Exhibit C) For instance, with respect to ISO-NE's Planning Advisory Committee, planning-related materials that are determined to be CEII are posted on ISO's password protected website. Governmental employees and energy industry personnel¹ seeking to obtain access to CEII material must take certain steps, as applicable, that include contacting ISO's Customer Service department, signing non-disclosure agreements and complying with governing agreements, rules and protocols. For CEII filed with FERC, ISO-NE policy states that non-governmental or energy industry personnel may obtain access pursuant to

¹Industry personnel include authorized market participants or representatives and their consultants, state and federal governmental agency employees and their consultants, Personnel of the ERO, NPCC, other regional transmission organizations or independent system operators, and transmission owners from neighboring regions. Attachment K, at sheet 6237.

the FERC CEII procedures. For CEII not filed with FERC, the requestor must comply with ISO's CEII procedures, which are similar to the FERC procedures. ISO-NE FERC Electric Tariff No. 3, Open Access Transmission Tariff, Section H – Attachment K – Regional System Planning Process, Sheet No. 6237 (eff. Dec. 7, 2007).

C. Transmission Owners' Adoption of CEII Policies

In response to Order 890, the New England public utilities that own electric transmission assets quickly adopted rules for the disclosure of CEII. See, http://www.transmission-nu.com/business/pdfs/PTO_CEII_Procedure.pdf Those rules are now being substantially revised. Because it was clear that this policy initiative would not be completed prior to its imminent filing of siting applications related to the Greater Springfield Reliability Project, Northeast Utilities Service Company developed a CEII policy applicable to the Northeast Utilities operating companies and effective now, that is of limited scope in that it applies specifically to the protection of CEII related to siting and related proceedings, including analyses of the need for, and non transmission alternatives to, proposed transmission projects. See, *Northeast Utilities Service Company Guidelines for Handling CEII Materials in Siting Proceedings*, September, 2008 (Siting CEII Policy) (Exhibit D)

This policy recognizes that:

Siting proceedings in which approval for Bulk Power System elements is sought typically include requirements to demonstrate a need for the proposed facility, the advantages of the proposed facility as compared to non-transmission alternative solutions to the need, information concerning the location of the proposed and existing facilities, and information concerning the design and construction of the proposed facility. Such information may or may not constitute CEII, depending on whether it provides sufficient detail so as to be potentially useful "to a person planning an attack on critical infrastructure.

Siting CEII Policy, at 3

Accordingly, for instance, data and descriptions that do not constitute CEII are recognized to include the detailed inputs for load flow studies used to determine compliance or non-compliance of the system with applicable reliability criteria, including forecasted load, assumed resources, and specific contingencies and generation dispatches. Without the results of each simulation, this information, even though detailed, does not identify specific weaknesses or vulnerabilities of the system that could be useful to a person intent on harming it. Therefore, the public version of need justifications and non transmission alternative studies may include such information. However, the criteria violations disclosed by the load flow studies, if disclosed in detail in combination with the inputs described above, would identify specific weaknesses of the system. The CEII Appendix includes such detailed information.

II. DISCUSSION

A. The Department has the authority to issue Protective Orders.

As discussed more fully below, the protective order sought by the Motion seeks to restrict access to documents that are exempt from mandatory disclosure under the Connecticut Freedom of Information Act, Connecticut General Statutes ("C.G.S.") § 1-200 et seq. (the "CT FOIA"). Like the Department of Public Utility Control, the Council has inherent power to preserve the confidentiality of information that is not subject to mandatory disclosure pursuant to the FOIA.

The DPUC has often exercised that power to protect proprietary business information. *See*, DPUC Basic Procedures for Filing Proprietary Information Under Protective Order, posted on the Department's web site. Recently, in its Docket 08-07-01, DPUC Review of the Integrated Resource Plan, the Department granted a Motion for Protective Order filed by CL&P to protect the ICF Report, on terms and conditions identical to those sought in the motion now before the Council. DPUC Docket No. 08-07-01, Ruling Granting Motion for Protective Order, 10/07/08. *See*, Exhibit E hereto.

B. The Connecticut Freedom of Information Act Exempts from Disclosure Material that Qualifies as CEII.

As is apparent from the unredacted portions of Section F of the Application and the ICF Report, and even more so from the unredacted copies filed with the Department under seal, the redacted material relates details about the transmission of energy; could be useful to a person planning an attack on critical infrastructure; and does more than simply provide the general location of critical infrastructure. Moreover, consistent with the definition of CEII, the Confidential Information is exempt from mandatory disclosure under the CT FOIA.²

In particular, the Confidential Information is exempt under C.G.S. § 1-210(b)(19) of the CT FOIA, which exempts records when there are reasonable grounds to believe that disclosure

² Since the CEII definition is contained in a rule of a federal agency subject to the Federal FOIA, it refers to the Federal FOIA. However, the Siting Council, as a Connecticut State Agency, is subject to the CT FOIA.

may result in a safety risk to any facility of a public service company.³

III. CONCLUSION

The CEII Appendix to the Application contains CEII, the disclosure of which may result in a significant safety risk for the general public and CL&P's facilities. Maintaining security for such sensitive information is the goal of the detailed CEII protections established by both FERC, ISO-NE, and CL&P, and recognized in the Connecticut FOIA. CL&P respectfully requests that the Council grant its request for a Protective Order with respect to this information.

Respectfully submitted,

**THE CONNECTICUT LIGHT AND POWER
COMPANY**

By: 

Anthony M. Fitzgerald
of Carmody & Torrance LLP
Its Attorneys
195 Church Street
New Haven, CT 06509-1950
(203) 777-5501

³ Such records include, but are not limited to:

- (i) Security manuals or reports;
- (ii) Engineering and architectural drawings of government-owned or leased institutions or facilities;
- (iii) Operational specifications of security systems utilized at any government-owned or leased institution or facility, except that a general description of any such security system and the cost and quality of such system, may be disclosed;
- (iv) Training manuals prepared for government-owned or leased institutions or facilities that describe, in any manner, security procedures, emergency plans or security equipment;
- (v) Internal security audits of government-owned or leased institutions or facilities;
- (vi) Minutes or records of meetings, or portions of such minutes or records, that contain or reveal information relating to security or other records otherwise exempt from disclosure under this subdivision;
- (vii) Logs or other documents that contain information on the movement or assignment of security personnel;
- (viii) Emergency plans and emergency preparedness, response, recovery and mitigation plans, including plans provided by a person to a state agency or a local emergency management agency or official; and
- (ix) With respect to a water company, as defined in section 25-32a, that provides water service: Vulnerability assessments and risk management plans, operational plans, portions of water supply plans submitted pursuant to section 25-32d that contain or reveal information the disclosure of which may result in a security risk to a water company, inspection reports, technical specifications and other materials that depict or specifically describe critical water company operating facilities, collection and distribution systems or sources of supply". C.G.S. §1-210(b)(19).

EXHIBIT A
to Memorandum in Support of
Motion for Protective Order

Westlaw

18 C.F.R. § 388.113

C

Effective: December 14, 2007

Code of Federal Regulations Currentness

Title 18. Conservation of Power and Water Resources

Chapter I. Federal Energy Regulatory Commission, Department of Energy

Subchapter X. Procedural Rules

Part 388. Information and Requests (Refs & Annos)

§ 388.113 Accessing critical energy infrastructure information.

(a) Scope. This section governs access to critical energy infrastructure information (CEII). The rules governing submission of CEII are contained in 18 CFR 388.112(b). The Commission reserves the right to restrict access to previously filed documents as well as Commission-generated documents containing CEII.

(b) Purpose. The procedures in this section are available at the requester's option as an alternative to the FOIA procedures in § 388.108 where the information requested is exempted from disclosure under the FOIA and contains CEII.

(c) Definitions. For purposes of this section:

(1) Critical energy infrastructure information means specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that:

(i) Relates details about the production, generation, transportation, transmission, or distribution of energy;

(ii) Could be useful to a person in planning an attack on critical infrastructure;

(iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and

(iv) Does not simply give the general location of the critical infrastructure.

(2) Critical infrastructure means existing and proposed systems and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters.

(d) Accessing critical energy infrastructure information.

(1) An Owner/operator of a facility, including employees and officers of the owner/operator, may obtain CEII relating to its own facility directly from Commission staff without going through the procedures outlined in paragraph (d)(3) of this section. Non-employee agents of an owner/operator of such facility may obtain CEII relating to the owner/operator's facility in the same manner as owner/operators as long as they present written authorization from the owner/operator to obtain such information.

(2) An employee of a federal agency acting within the scope of his or her federal employment may obtain CEII directly from Commission staff without following the procedures outlined in paragraph (d)(3) of this

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18 C.F.R. § 388.113

section. Any Commission employee at or above the level of division director or its equivalent may rule on federal agency representatives' requests for access to CEII.

(3) A landowner whose property is crossed by or in the vicinity of a project may receive detailed alignment sheets containing CEII directly from Commission staff without submitting a non-disclosure agreement as outlined in paragraph (d)(4) of this section. A landowner must provide Commission staff with proof of his or her property interest in the vicinity of a project.

(4) If any other requester has a particular need for information designated as CEII, the requester may request the information using the following procedures:

(i) File a signed, written request with the Commission's CEII Coordinator. The request must contain the following: Requester's name (including any other name(s) which the requester has used and the dates the requester used such name(s)), title, address, and telephone number; the name, address, and telephone number of the person or entity on whose behalf the information is requested; a detailed statement explaining the particular need for and intended use of the information; and a statement as to the requester's willingness to adhere to limitations on the use and disclosure of the information requested. A requester shall provide his or her date and place of birth upon request, if it is determined by the CEII Coordinator that this information is necessary to process the request. Unless otherwise provided in Section 113(d)(3), a requester must also file an executed non-disclosure agreement.

(ii) A requester who seeks the information on behalf of all employees of an organization should clearly state that the information is sought for the organization, that the requester is authorized to seek the information on behalf of the organization, and that all the requesters agree to be bound by a non-disclosure agreement that must be executed by and will be applied to all individuals who have access to the CEII.

(iii) After the request is received, the CEII Coordinator will determine if the information is CEII, and, if it is, whether to release the CEII to the requester. The CEII Coordinator will balance the requester's need for the information against the sensitivity of the information. If the requester is determined to be eligible to receive the information requested, the CEII Coordinator will determine what conditions, if any, to place on release of the information.

(iv) If the CEII Coordinator determines that the CEII requester has not demonstrated a valid or legitimate need for the CEII or that access to the CEII should be denied for other reasons, this determination may be appealed to the General Counsel pursuant to § 388.110 of this Chapter. The General Counsel will decide whether the information is properly classified as CEII, which by definition is exempt from release under FOIA, and whether the Commission should in its discretion make such CEII available to the CEII requester in view of the requester's asserted legitimacy and need.

(v) Once a CEII requester has been verified by Commission staff as a legitimate requester who does not pose a security risk, his or her verification will be valid for the remainder of that calendar year. Such a requester is not required to provide detailed information about him or herself with subsequent requests during the calendar year. He or she is also not required to file a non-disclosure agreement with subsequent requests during the calendar year because the original non-disclosure agreement will apply to all subsequent releases of CEII.

(vi) If an organization is granted access to CEII as provided by paragraph (d)(4)(iii) of this section, and later

18 C.F.R. § 388.113

seeks to add additional individuals to the non-disclosure agreement, the names of these individuals must be sent to the CEII Coordinator with certification that notice has been given to the submitter. Any newly added individuals must execute a supplement to the original non-disclosure agreement indicating their acceptance of its terms. If there is no written opposition within five (5) days of notifying the CEII Coordinator and the submitter concerning the addition of any newly-named individuals, the CEII Coordinator will issue a standard notice accepting the addition of names to the non-disclosure agreement. If the submitter files a timely opposition with the CEII Coordinator, the CEII Coordinator will issue a formal determination addressing the merits of such opposition.

(e) Fees for processing CEII requests will be determined in accordance with 18 CFR 388.109.

[Order 630, 68 FR 9870, March 3, 2003; Order 630-A, 68 FR 46460, Aug. 6, 2003; Order 649, 69 FR 48391, Aug. 10, 2004; Order 662, 70 FR 37036, June 28, 2005; Order 683, 71 FR 58276, Oct. 3, 2006; Order 702, 72 FR 63985, Nov. 14, 2007]

18 C. F. R. § 388.113, 18 CFR § 388.113

Current through August 28, 2008; 73 FR 50731

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EXHIBIT B
to Memorandum in Support of
Motion for Protective Order

UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION

18 CFR Parts 35 and 37

(Docket Nos. RM05-17-000 and RM05-25-000; Order No. 890)

Preventing Undue Discrimination and Preference in Transmission Service

(Issued February 16, 2007)

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final Rule

SUMMARY: The Federal Energy Regulatory Commission is amending the regulations and the pro forma open access transmission tariff adopted in Order Nos. 888 and 889 to ensure that transmission services are provided on a basis that is just, reasonable and not unduly discriminatory or preferential. The final rule is designed to: (1) strengthen the pro forma open-access transmission tariff, or OATT, to ensure that it achieves its original purpose of remedying undue discrimination; (2) provide greater specificity to reduce opportunities for undue discrimination and facilitate the Commission's enforcement; and (3) increase transparency in the rules applicable to planning and use of the transmission system.

EFFECTIVE DATE: This rule will become effective [insert date 60 days after publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT:

Daniel Hedberg (Technical Information)
Office of Energy Markets and Reliability
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
(202) 502-6243

W. Mason Emmett (Legal Information)
Office of the General Counsel – Energy Markets
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
(202) 502-6540

Kathleen Barrón (Legal Information)
Office of the General Counsel – Energy Markets
Federal Energy Regulatory Commission
888 First Street, N.E.
Washington, D.C. 20426
(202) 502-6461

SUPPLEMENTARY INFORMATION:

that raises security and confidentiality concerns, and ISO New England and Entergy's concerns about commercial and market-sensitive information.

404. In order to provide transparency and avoid undue delays in providing information to those with a legitimate need for it, the Commission requires transmission providers to establish a standard disclosure procedure for CEII required to be disclosed by this Final Rule. We note that transmission customers already have digital certificates or passwords to access publicly restricted transmission information on OASIS. Transmission providers may set up an additional login requirement for users to view CEII sections of the OASIS, requiring users to acknowledge that they will be viewing CEII information.

Transmission providers may require customers to sign a nondisclosure agreement at the time that the customer obtains access to this portion of the OASIS. Only information that meets the criteria for CEII, as defined in section 388.113 of the Commission's regulations,²²¹ should be posted in this section of the OASIS. Transmission providers will be responsible for identifying CEII and facilitating access to it by appropriate entities, and the Commission will be available to resolve disputes if they arise.

(10) Additional Data Posting

NOPR Proposal

405. To further reduce discretion in calculating ATC/AFC, the Commission proposed that transmission providers post on OASIS metrics related to the provision of

²²¹ 18 CFR 388.113.

EXHIBIT C
to Memorandum in Support of
Motion for Protective Order

2.4 Procedures

(a) Notice of Meetings

Prior to the beginning of each year, the ISO shall list on the ISO Calendar, which is available on the ISO's website, the proposed meeting dates for the Planning Advisory Committee for each month of the year. Prior to a Planning Advisory Committee meeting, the ISO shall provide notice to the Planning Advisory Committee by electronic email with the date, time, format for the meeting (*i.e.*, in person or teleconference), and the purpose for the meeting.

(b) Frequency of Meetings

Meetings of the Planning Advisory Committee shall be held as frequently as necessary to serve the purposes stated in Section 2.2 of this Attachment and as further specified elsewhere in this Attachment, generally expected to be no less than four (4) times per year.

(c) Availability of Meeting Materials

The ISO shall post materials for Planning Advisory Committee meetings on the Planning Advisory Committee section on the ISO's website prior to meetings. The materials for the Planning Advisory Committee meetings shall be made available to the members of the Planning Advisory

Committee subject to protections warranted by confidentiality requirements of the ISO New England Information Policy set forth in Attachment D of the ISO Tariff and Critical Energy Infrastructure Information (“CEII”) policy as further described in Section 2.4(d) of this Attachment.

(d) Access to Planning-Related Materials that Contain CEII

CEII is defined as specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or virtual) that:

- (i) Relates details about the production, generation, transportation, transmission, or distribution of energy;
- (ii) Could be useful to a person in planning an attack on critical infrastructure;
- (iii) Is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552; and
- (iv) Does not simply give the location of critical infrastructure.

CEII pertains to existing and proposed system and assets, whether physical or virtual, the incapacity or destruction of which would negatively affect security, economic security, public health or safety, or any combination of those matters. CEII does not include information that is otherwise publicly available. Simplified maps and general information

on engineering, vulnerability, or design that relate to production, generation, transportation, transmission or distribution of energy shall not constitute CEII.

Planning-related materials determined to be CEII will be posted on the ISO's password-protected website. To obtain access to planning-related materials determined to be CEII, the entity seeking to obtain such access must contact the ISO's Customer Service department. Authorized Market Participants or their representatives, such as consultants, are bound by the ISO New England Information Policy and will be able to access CEII materials through the ISO's password-protected website. State and federal governmental agency employees and their consultants will be able to access such materials through the ISO's password-protected website upon submittal of a signed non-disclosure agreement, which is available on the ISO's website. Personnel of the ERO, NPCC, other regional transmission organizations or independent system operators, and transmission owners from neighboring regions will be able to access CEII materials pursuant to governing agreements, rules and protocols. All external requests by other persons for planning-related materials determined to be CEII shall be recorded and tracked by ISO's Customer Services staff. Such requestors

will be able to obtain access to CEII documents filed with the Commission pursuant to the Commission's regulations governing access to CEII. To the extent a requestor seeks access to planning-related material that is not filed with the Commission, such requestor shall comply with the requirements provided in the CEII procedures of the ISO, available on the ISO's website, prior to receiving access to CEII information. Upon compliance with the ISO's CEII procedures, the ISO shall grant the requestor access to the planning-related CEII document through direct distribution or access to the ISO password-protected website.

2.5 Local System Planning Process

The LSP process described in Appendix 1 to this Attachment applies to the transmission system planning for the Non-PTF in the New England Transmission System. The PTOs will utilize interested members of the Planning Advisory Committee for advisory stakeholder input in the LSP process that will meet, as needed, at the conclusion of, or independent of, scheduled Planning Advisory Committee meetings. The LSP meeting agenda and meeting materials will be developed by representatives of the pertinent PTOs and PTO representatives will chair the LSP meeting. The ISO will post the LSP agenda and materials for LSP

EXHIBIT D
to Memorandum in Support of
Motion for Protective Order

**Northeast Utilities Service Company
Guidelines for
Handling CEII Materials in
Siting Proceedings**

September, 2008

Status and Purpose of this Document

The New England Participating Transmission Owners have adopted a "Procedure for Disclosure of Critical Energy Infrastructure Information (CEII) "Procedure", posted on the Northeast Utilities website at http://www.transmission-nu.com/business/pdfs/PTO_CEII_Procedure.pdf which is currently being considered for revision. This document is intended to provide specific guidance for the handling of CEII in siting proceedings, consistent with the Procedure, and consistent with Order 890 of the Federal Energy Regulatory Commission. Upon adoption by the New England Participating Transmission Owners of any revision of the existing Procedure, this document may be revised to conform to any such revisions.

1. Introduction

This procedure is intended to provide guidance to all affiliates of Northeast Utilities Service Company (NUSCO) with respect to the classification and disclosure of CEII materials in the context of transmission infrastructure siting proceedings, including disclosures that precede the filing of an application but are related to the application process.

This document will:

- Assist personnel who prepare and file siting applications and related materials in determining the kinds of internal information that qualify as CEII
- Provide guidance on properly labeling such information
- Provide for the entry of a CEII Protective Order in a siting proceeding, to expedite the sharing of CEII with a siting agency, its staff, parties and intervenors.

2. Definitions

Bulk Power System

The Northeast Power Coordinating Council (NPCC) defines the Bulk Power System as “the interconnected electrical systems within northeastern North America comprised of system elements on which faults or disturbances can have a significant adverse impact outside of the local area.”

Critical Assets

The North American Electric Reliability Corporation (NERC) identifies “Facilities, systems, and equipment which, if destroyed, degraded, or otherwise rendered unavailable, would affect the reliability or operability of the Bulk Electric System” as Critical Assets.”¹

Critical Facility

“Any facility or combination of facilities, if severely damaged or destroyed, that would have a significant impact on the ability to serve large quantities of customers for an extended period of time, would have a detrimental impact to the reliability or operability of the energy grid, or would cause significant risk to public health and safety.”²

Critical Infrastructure

NERC defines Critical Infrastructure as “the Systems and Assets, whether physical or virtual, that are so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on the security, national economic security, national public health or safety, or any combination of those matters.”³ Systems, as defined in this procedure, refer to discrete protection, control, and communication systems.

3. Information in Siting Filings Likely to Qualify as CEII

FERC defines CEII as “specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure (physical or electronic) that:

- (i) relates details about the production, generation, transmission, or distribution of energy;

¹ NERC Glossary of Terms Used in Reliability Standards (2/12/2008)

² NERC Security Guidelines for the Electricity Sector, “Protecting Potentially Sensitive Information,” version 1.0 (June 14, 2002)

³ NERC Glossary of Terms Used in Reliability Standards (2/12/2008)

- (ii) could be useful to a person planning an attack on critical infrastructure;
- (iii) is exempt from mandatory disclosure under the federal Freedom of Information Act, 5 U.S.C. 552; and
- (iv) does not simply give the location of critical infrastructure.⁴

CEII "does not include information that is otherwise publicly available. Simplified maps and general information on engineering, vulnerability, or design that relate to production, generation, transportation, transmission or distribution of energy shall not constitute CEII."⁵

Certain elements of the Bulk Power System qualify as "Critical Infrastructure." Siting proceedings in which approval for Bulk Power System elements is sought typically include requirements to demonstrate a need for the proposed facility, the advantages of the proposed facility as compared to non-transmission alternative solutions to the need, information concerning the location of the proposed and existing facilities, and information concerning the design and construction of the proposed facility. Such information may or may not constitute CEII, depending on whether it provides sufficient detail so as to be potentially useful "to a person planning an attack on critical infrastructure."

4. Specific Examples

The following examples illustrate how materials will or will not qualify as CEII, depending on their level of detail:

4.1 Maps/Diagrams

CEII Treatment Required:

- 345-kV / 115-kV system diagrams that includes bus detail
- Diagrams/maps/plots of sufficient detail to be used in system modeling
- Graphic descriptions of load flow modeling output identifying specific weaknesses and vulnerabilities
- Diagrams / drawings that provide design or operation details, such as substation layouts showing each breaker, transformer and generator loading
- Detailed representation of transmission components containing bulk power elements or resource components (i.e., Breaker / transformer...)

CEII Treatment Not Required

Maps/diagrams that can be made public include:

- One-line type representation of transmission lines that do not include information concerning weaknesses or vulnerabilities.
- Maps showing a company's territory or ownership
- Geographic Transmission Maps including topological transmission maps.

4.2 Reports, data, etc.

⁴ FERC Guidelines for Filing Critical Energy Infrastructure Information (CEII)

⁵ ISO-NE FERC Electric Tariff No. 3, Open Access Transmission Tariff, Section H – Attachment K – Regional System Planning Process, Sheet NO. 6237 9eff. Dec. 7, 2007)

CEII Treatment Required

- Descriptive text that provides detailed information of the type described in Section 4.1 must be redacted. Such information would include:
 - Detailed descriptions of Bulk Power System components or protective schemes (i.e. relay and protection information, special protection system detail, substation design detail)
 - Detailed descriptions of a specific Bulk Power System weakness or vulnerability
 - Output of load flow studies that identify specific weaknesses or vulnerabilities.
 - "Needs" description (if sufficiently detailed to identify a specific vulnerability)
 - Description of the justification (or lack thereof) of a system alternative, if sufficiently detailed to identify a specific weakness or vulnerability)
 - Powerflow cause and effect description that identifies a specific weakness.

CEII Treatment Not Required:

- Descriptive text that does not require CEII treatment includes:
 - Forecasts of loads and resources
 - Identification of contingencies and dispatches in load flow studies (detailed yet lacks value unless coupled with results).
 - General descriptions of non-conformities with reliability criteria that do not identify specific weaknesses and vulnerabilities in detail
 - Claimed Capability Report (lacks detail)
 - Installed Capacity Reports and Claimed Capability of Generators (lacks detail)
 - Discussion of interface limits that does not identify the limiting facilities.

5. Document Control

To the extent practicable, CEII in siting filings should be aggregated in discrete documents or volumes in which it is not intermixed with non-CEII materials. Such documents or volumes shall bear a legend on the cover and in a header on every page: *"Confidential Critical Energy Infrastructure Information Subject to Protective Order and/or Non Disclosure Agreement. Do Not Copy or Provide to Unauthorized Persons."*

When CEII is intermixed with other materials, it must be securely redacted, and the redaction must be accompanied by a notation: *"Confidential CEII."* Each volume or document that contains such redactions shall include a prominent explanatory legend: *"This document contains Critical Energy Infrastructure Information (CEII) which has been redacted. The redacted information is or will be available to parties and intervenors in the administrative proceeding in which this document has been or will be filed, pursuant to a Protective Order; or upon application and approval by [Name, telephone number, and e-mail address of CEII Coordinator]. In either case the Recipient will be required to execute a Non Disclosure Agreement."*

Both physical and electronic copies of information must be segregated, labeled, and redacted as described above.

The NUSCO affiliate applying for siting approval shall make every effort to obtain a Protective Order substantially in the Form of Attachment A hereto. The Non Disclosure Agreement to be executed pursuant to that protective order shall be substantially in the Form of the example included in Attachment A.

PROCEEDING CAPTION

DATE

**PROTECTIVE ORDER RE:
CRITICAL ENERGY INFRASTRUCTURE INFORMATION**

On [DATE] [NAME OF APPLICANT] (Applicant) filed an application for [NAME OF PERMIT SOUGHT, eg. Certificate of Environmental Compatibility and Public Need] for [IDENTIFY FACILITY THAT SUBJECT OF PROCEEDING]

Certain highly sensitive critical energy infrastructure information ("CEII") was or will be provided by Applicant in its initial filing and Applicant anticipates additional CEII may be requested and provided in subsequent discovery. Accordingly, Applicant has requested that a protective scheme be implemented for this data. Consistent with ISO New England, Inc. ("ISO-NE") and the Federal Energy Regulatory Commission ("FERC"), Petitioners define CEII as "specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates details about the production, generation, transportation, transmission or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the federal Freedom of Information Act, 5 U.S.C. § 522 (2000); and (4) does not simply give the general location of the critical infrastructure."

Applicants maintain that protecting such acritical energy infrastructure information from disclosure is required by FERC regulation as set froth in Order No. 890; and that its release would be damaging to Applicants' interests and the public interest, including security interests. Pursuant to [NAME SOURCE OF AUTHORITY] this [Board / Commission / Council] (the "Agency") has the authority to issue protective orders limiting public access to information regarding the technical operations of a public utility in order to ensure the security of public utility systems.

Attachment A
NUSCO Guidelines for Handling CEII Materials in Siting Proceedings

Accordingly, it is

ORDERED

1. Until this Order is modified, access to CEII shall be limited as described in Paragraph 4 below.
2. That all CEII shall, unless removed from the coverage of this Order as provided in Paragraph 3 below, be and remain confidential. CEII shall not be disclosed for any purpose other than the purposes of this proceeding, and then solely in accordance with this Order. No person to whom access to CEII is accorded pursuant to Paragraph 4 of this Order shall disclose or reveal, directly or indirectly, the content of the CEII to others, except as provided in Paragraph 4.
3. That the parties to whom CEII is furnished may challenge designation of any documents or other information as confidential by motion to the Agency and upon reasonable prior notice to the parties and an opportunity for hearing. Upon the entry of an order granting such a motion, the provisions and restrictions of this Order shall cease to bind any party or other person with respect to the documents or information that the Order granting the motion shall have expressly and clearly removed from the coverage of this Order.
4. That, until this Order is modified, access to CEII shall be limited to (i) registered employees of a Governance or Market Participant as defined in the ISO-NE OATT; (ii) an employee of an Independent System Operator ("ISO") or Regional Transmission Organization ("RTO"); (iii) a state agency employee, including members and staff of the Agency; (iv) other state and local officials; (v) federal agencies and their staff; (vi) an employee of an electric reliability organization or regional entity; (vii) an employee of a transmission owner in another region; (viii) parties and intervenors in this proceeding, and their counsel; (ix) a consultant engaged for the purpose of this proceeding for one of the foregoing persons or entities; and (x) and a stenographer or reporter recording any hearing in connection with this proceeding as part of the official record of the proceeding.

Any such recipient of CEII shall agree to use the CEII solely for the purposes of this proceeding and not disclose the information to any other person. Please note that each person within an entity or organization, except for state agency members and staff employees, who are provided with access to the CEII must complete a CEII Non-Disclosure Agreement, similar to the form attached.

Attachment A
NUSCO Guidelines for Handling CEII Materials in Siting Proceedings

5. That no copies of CEII furnished by Applicant shall be circulated to persons other than those persons who are authorized under Paragraph 4 of this Order to obtain CEII. Documents offered in evidence may be copied as necessary for that purpose. Persons authorized under Paragraph 4 hereof also may take such notes as may be necessary solely for the purposes of this proceeding. Those notes shall also be treated as CEII. Although a person authorized to obtain CEII may use the information as foundation for advice to his or her employer or clients, s/he may only discuss the CEII with or disclose CEII to another person authorized to receive identical CEII.

6. All materials claimed by Applicant to be CEII under the terms of this Order shall be clearly marked "CEII" by Applicant. To the extent practicable, CEII in siting filings should be aggregated in discrete documents or volumes in which it is not intermixed with non-CEII materials. Such documents or volumes shall bear a legend on the cover and in a header on every page: *"Confidential Critical Energy Infrastructure Information Subject to Protective Order and/or Non Disclosure Agreement. Do Not Copy or Provide to Unauthorized Persons."*

When CEII is intermixed with other materials, it must be securely redacted, and the redaction must be accompanied by a notation: *"Confidential CEII."* Each volume or document that contains such redactions shall include a prominent explanatory legend: *"This document contains Critical Energy Infrastructure Information (CEII) which has been redacted. The redacted information is or will be available to parties and intervenors in the administrative proceeding in which this document has been or will be filed, pursuant to a Protective Order; or upon application and approval by [Name, telephone number, and e-mail address of CEII Coordinator.] In either case the Recipient will be required to execute a Non-Disclosure Agreement.* Faxed materials should be marked as any other confidential document. With regard to other media, diskettes should be marked "Confidential CEII" on the outside and each file on the diskette should be similarly identified. Materials produced electronically shall be marked "confidential" and access to electronically-produced confidential materials shall be limited accordingly to the terms and limitations provided in this Order. Any person or party subject to the terms of this Order who receives unmarked documents or materials which s/he believes Applicant intended to be protected by the terms of this Order, and that would have been protected if marked in accordance with this paragraph, shall make a good faith effort to notify Applicant of this fact and to avoid use of such documents or materials in a manner inconsistent with protection of such material under this Order.

7. That the restrictions upon, and obligations accruing to, persons who become subject to this Order shall not apply to any CEII submitted in accordance with Paragraph 1 of this Order if the Agency rules, after reasonable notice and hearing, that the CEII was

Attachment A
NUSCO Guidelines for Handling CEII Materials in Siting Proceedings

publicly known at the time it was furnished or has since become publicly known through no fault of the receiving party.

8. That where reference to CEII is required in pleadings, briefs, other legal documents, or argument, the reference shall be by citation of title or exhibit number only or by some other non-confidential description to the extent possible. In those circumstances, counsel shall make every reasonable effort to preserve the confidentiality of material in the sealed record. If counsel shall include CEII in pleadings, briefs, other legal documents, or arguments, that portion of the documents or that portion of the transcript of the argument containing CEII shall be maintained under seal.

9. That the Agency may draw upon all CEII in the record in the deliberation of any decision or order that it may issue, but will avoid the reproduction in its decision of any CEII.

10. That should any appeal of, or other challenge to, the Agency's decision in this proceeding be taken, any portions of the record that have been sealed in accordance with Paragraph 6 above shall be forwarded to the courts of this State or other court having subject matter jurisdiction, in accordance with applicable law and procedures, under such protective order as may be entered by the court.

11. That this Order does not preclude any party from objecting to the admissibility of any CEII on any ground other than its classification as Confidential.

12. That CEII made available pursuant to this Order and made part of the record in any proceeding before the Agency shall remain in the possession of the Commission, under seal, and subject to the protective requirements of this Order, until this Agency [or its authorized presiding officer] shall otherwise order.

13. That this Order may be modified on motion of any party or on the Commission's own motion upon reasonable prior notice to the parties and an opportunity for hearing.

14. Copies of CEII and documents, notes and other materials containing or reflecting, directly or indirectly, the CEII, that are in possession of the Agency members, counsel or employees may be retained by those persons for the purpose of performing those persons' duties and obligations. If retained, the CEII shall be subject to this Protective Order or to a protective order issued in another proceeding in which the CEII is used. If such a member, counsel or employee of the Commission does not retain the CEII, that person shall destroy it as provided in this paragraph. When the Agency determines that any CEII is no longer required for its work, it shall destroy the material. All parties and intervenors to whom CEII has been made available in the proceeding, their counsel and retained experts, shall destroy all documents, notes and other materials containing or reflecting,

Attachment A
NUSCO Guidelines for Handling CEII Materials in Siting Proceedings

directly or indirectly, the CEII. Audio, video or other such magnetically recorded materials shall be electronically erased before disposal. Paper documents shall be shredded.

SIGNATURE BLOCKS

Attachment A
NUSCO Guidelines for Handling CEII Materials in Siting Proceedings

Sample CEII Request Form

SECTION I

CRITICAL ENERGY INFRASTRUCTURE INFORMATION ("CEII") REQUEST FORM PURSUANT TO PROTECTIVE ORDER

1. This form must be accompanied by an original signed Non-Disclosure Agreement, and should be used if you are a party or intervenor in a siting proceeding and are not employed by the Independent System Operator, New England (ISO-NE) or a federal or state agency. If you have already signed a CEII Non-Disclosure Agreement, please provide the date: _____

2. The undersigned requests the following information [describe in detail]:

3. The undersigned is:
 a party or intervenor in [SHORT CAPTION OF PROCEEDING] having been admitted as such on _____
 an employee of ISO-NE or another independent system operator or regional transmission organization in North America
 a state agency employee
 a federal agency employee
 an employee of the electricity reliability organization or regional entity
 an employee of a transmission owner in another control area
 a consultant of one of the entities listed above who has been retained to provide advice regarding the matter described in no. 5 below

4. Give the name of your employer and your title: _____

5. The undersigned represents warrants and agrees that the information is to be used solely for the following purpose [describe in detail]: _____

6. If you are a consultant, provide the name and contact information of an individual at the organization that has retained you so that we may verify your role: _____

I acknowledge that the foregoing is true and accurate, and agree to give NUSCO immediate notice if any of the foregoing is no longer true. I also consent to NUSCO and its affiliated companies sharing the fact that this request has been made and/or granted, and agree that NUSCO and its parent and affiliated companies shall have no liability to me in connection with this request.

Signature: _____ Name (please print): _____

Organization: _____ Business Address: _____

Email: _____ Phone: _____

Fax: _____ Date: _____

SECTION II

CEII NON-DISCLOSURE AGREEMENT

This CEII NON-DISCLOSURE AGREEMENT (the "Agreement") is made by the undersigned (the "Recipient") in favor of NORTHEAST UTILITIES SERVICE COMPANY (NUSCO) as agent for one or more of its affiliates, THE CONNECTICUT LIGHT AND POWER COMPANY, WESTERN MASSACHUSETTS ELECTRIC COMPANY, HOLYOKE POWER AND ELECTRIC COMPANY, HOLYOKE WATER POWER COMPANY, AND PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE (collectively, the Company)

WHEREAS, the Recipient has requested that the Company disclose to the Recipient certain information, all or a portion of which has been classified as Critical Energy Infrastructure Information; and

WHEREAS, the Federal Energy Regulatory Commission has defined Critical Energy Infrastructure Information as "specific engineering, vulnerability, or detailed design information about proposed or existing critical infrastructure that: (1) relates details about the production, generation, transportation, transmission, or distribution of energy; (2) could be useful to a person in planning an attack on critical infrastructure; (3) is exempt from mandatory disclosure under the Freedom of Information Act, 5 U.S.C. 552 (2000); and (4) does not simply give the general location of the critical infrastructure";

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Recipient agrees as follows:

1. Definition of CEII. For purposes of this Agreement, "Critical Energy Infrastructure Information" or "CEII" shall mean: (i) all information designated as such by FERC, or the Company, whether furnished before or after the date hereof, whether oral, written or recorded/electronic, and regardless of the manner in which it is furnished; and (ii) all reports, summaries, compilations, analyses, notes or other information which contain such information.

2. Use and Protection of CEII.

(a) All CEII shall be maintained by Recipient in a secure place. Recipients may make copies of CEII, but such copies become CEII and subject to these same procedures. Recipients may make notes of CEII, which shall be treated as CEII if they contain CEII.

(b) Although a Recipient of CEII may use CEII as foundation for advice provided to his or her employer or clients, s/he may only discuss CEII with or disclose CEII to another Recipient of the identical CEII. A Recipient may check with the Company to determine whether another individual is a Recipient of the identical CEII.

(c) A Recipient will not knowingly use CEII directly or indirectly for an illegal or non-legitimate purpose.

(d) In the event that the Recipient is required to disclose CEII by subpoena, law or other directive of a court, administrative agency or arbitration panel, the Recipient hereby agrees to provide the Company with prompt notice of such request or requirement in order to enable the Company to (i) seek an appropriate protective order or other remedy, (ii) consult with the

Recipient with respect to taking steps to resist or narrow the scope of such request or legal process, or (iii) waive compliance, in whole or in part, with the terms of this Agreement. In the event that such protective order or other remedy is not obtained, or the Company waives compliance with the provisions hereof, the Recipient hereby agrees to furnish only that portion of the CEII which the Recipient's counsel advises is legally required and to exercise best efforts to obtain assurance that confidential treatment will be accorded such CEII.

3. Return of CEII. In the event that the Company, in its sole discretion, so requests, the Recipient will promptly deliver to the Company all CEII, including all copies, reproductions, summaries, compilations, analyses or extracts thereof.

4. Change in Status. If the Recipient ceases to be a party or intervenor in the siting proceeding to which the CEII provided hereunder relates, the Company may require the return of the CEII or its destruction.

5. CEII "on Loan". Information provided pursuant to this Agreement is deemed to be on loan and must be returned to the Company upon request. If the Recipient is an employee of a federal or State agency, s/he must note that the information is not the property of the agency and is not subject to Freedom of Information/Public Records acts or similar statutes.

6. No Warranty. The CEII is provided "as is" with all faults. In no event shall the Company be liable for the accuracy or completeness of the CEII. The Company shall not have liability to the Recipient, or any other person or entity, for the Recipient's use of any CEII disclosed pursuant to this Agreement.

7. Equitable Relief; Audit. Without prejudice to the rights and remedies otherwise available to the Company, the Company shall be entitled to seek equitable relief by way of injunction or otherwise if the Recipient breaches or threatens to breach any of the provisions of this Agreement. The Company may audit the Recipient's compliance with this Agreement.

8. Survival. The Recipient remains bound by these provisions unless the Company has rescinded it.

9. No Waiver. The Recipient understands and agrees that no failure or delay by the Company in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.

10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the [State or Commonwealth in which the siting proceeding is pending.]

11. Assignment Prohibited. Any assignment of the Recipient's rights, obligations or duties under this Agreement without the Company's prior written consent shall be void.

12. Entire Agreement. This Agreement contains the entire agreement between the parties concerning the protection of the CEII, and no modification of this Agreement or waiver of the terms and conditions hereof shall be binding upon the parties, unless approved in writing by each of them.

13. Severability. If any provision or provisions of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

IN WITNESS WHEREOF, the Recipient has executed this CEII Non-Disclosure Agreement as of the date set forth below.

Signature: _____

Name (please print): _____

Date:

Organization:

Address:

EXHIBIT E
To Memorandum in Support of
Motion for Protective Order

Motion Ruling for Docket 08-07-01

Filed Information

Official Filer(s) Name:

Filing Firm's Name:

Company Name(If different than Filing Firm):

Date Filed: 10/02/2008 01:36:03 PM

Motion Number: 15

Brief Description: Motion for Protective Order for LF-027

Attached Motion(s):

Edit Flag Yes



Disposition: Granted

Comments:

Ruling Date: 10/07/2008



Attached Ruling(s): Motion 15.doc

October 7, 2008
In reply, please refer to:
Docket No. 08-07-01:ADJ:JDF
Motion No. 15

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

Re: Docket No. 08-07-01 – DPUC Review of the Integrated Resource Plan

Dear Mr. Gibelli:

The Department of Public Utility Control (Department) hereby grants the request of The Connecticut Light and Power Company (Company) received on October 1, 2008, for a Protective Order on Late Filed Exhibit 27, for the reasons stated in said motion.

Said material shall be maintained in a locked file available for viewing only by members of the Department's staff and Commissioners.

Sincerely,
DEPARTMENT OF PUBLIC UTILITY CONTROL

Nicholas E. Neeley
Acting Executive Secretary

cc: Service List