

May 4, 2011

State of Connecticut
Connecticut Siting Council
10 Franklin Square
New Britain CT 06051
Attn: Linda Roberts, Executive Director

Re: Docket No. 370A: CL&P the Greater Springfield Reliability Project

Dear Ms. Roberts,

The purpose of this letter is to seek a revision in Condition 7 of the Decision and Order dated March 16, 2010 concerning the Greater Springfield Reliability Project (“GSRP”) (the “Condition.”) The Condition provides:

The Certificate Holder shall obtain necessary permits from the United States Army Corps of Engineers and the Connecticut Department of Environmental Protection prior to the commencement of construction.

The Connecticut Light and Power Company (“CL&P”), as the Certificate Holder, respectfully requests that the Condition either be eliminated or that it be revised to provide:

The Certificate Holder shall obtain necessary permits from the United States Army Corps of Engineers and the Connecticut Department of Environmental Protection prior to the commencement of ~~construction~~ **any activity requiring such permits.**

The Condition was issued subject to the following proviso:

Unless otherwise approved by the Council, the facilities shall be constructed, operated, and maintained substantially as specified in the Council’s record in this matter, and as subject to the following conditions:...

Because the Council thus retained jurisdiction to revise the Condition, it may now do so by a vote at a regular meeting, without the extensive process required for a modification of a final decision or an amendment to a Certificate. *See*, the Council’s Ruling on *Petition 802*,

{N0883122}

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Petition for a Declaratory Ruling filed by the Town of Middlebury, d. January 11, 2007; and Town of Middlebury v. Connecticut Siting Council, No. HHBCV074013143, Super Ct., J.D. New Britain (Nov. 1, 2007, Schuman, J.), 2007 WL 4106365.

CL&P makes this request for the following reasons:

As explained during the hearing in this Docket, a permit from the Army Corps of Engineers (ACOE) under Section 404 of the federal Clean Water Act, and a predicate approval from the Connecticut Department of Environmental Protection (CTDEP) under Section 401 of that Act, are required before any construction that would affect any federal jurisdictional water resource may be undertaken. However, those permits are not required in order for a Certificate Holder to start work in upland areas that are not near any such water resource. Accordingly, in past projects, including the recent Middletown to Norwalk Project, once CL&P was confident that an ACOE permit was going to be issued, it started work in upland areas. (See, Testimony of Louise Mango at Joint Evidentiary Hearing session of the Connecticut Siting Council and The Commonwealth of Massachusetts Energy Facilities Siting Board, Sept. 22, 2009, at 61-65. (Copy attached.) Similarly, in the Glenbrook Cables Project (Docket No. 292), significant construction was performed in upland areas before the ACOE and CTDEP permits were secured. At present, Western Massachusetts Electric Company is performing construction work in upland areas of the Massachusetts portion of the GSRP. These construction efforts were and are possible because none of the governing siting approvals included a condition precluding construction until the ACOE approval was issued.

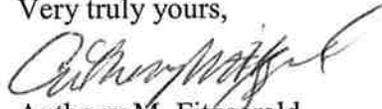
The Condition was not the subject of any questioning at the hearings and was not discussed by the Council during their deliberations. The Record suggests no reason for its imposition.

As the Council knows, CTDEP issued its required permits (a consistency statement pursuant to §401 of the federal Clean Water Act and a Stream Channel Encroachment Line approval) on December 10, 2010. CL&P submitted a copy of this permit to the Council on January 14, 2011. However, CL&P does not expect the ACOE permit to be issued until the third quarter of 2011. As set forth in Section 6 of the approved GSRP Development and Management Plan, CL&P has planned to commence work at the North Bloomfield Substation site in the Second Quarter of 2010. Much of the time-consuming site preparation and foundation work can be performed within the existing fenced area of the substation, which would not implicate any water resource. Accordingly, this activity would not require a §404 approval from the ACOE. Proceeding with this work will be important to meeting the Project's in-service date of fourth quarter, 2013.

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Since the potential imposition of the Condition was never addressed during the hearings or during the post-hearing briefing and the reason for the Condition is unstated and unknown; and since the consistent past practice of allowing construction in upland areas before the water-resource-related permits have been issued has been problem-free, CL&P respectfully requests relief from the Condition, as set forth above.

Very truly yours,



Anthony M. Fitzgerald

cc: CSC Service List

JOINT EVIDENTIARY HEARING SESSION
OF THE
STATE OF CONNECTICUT
SITING COUNCIL
AND
THE COMMONWEALTH OF MASSACHUSETTS
ENERGY FACILITIES SITING BOARD

* * * * *
THE CONNECTICUT LIGHT AND * SEPTEMBER 22, 2009
POWER COMPANY: * 11:00 a.m.
*

APPLICATION FOR CERTIFICATES OF *
ENVIRONMENTAL COMPATIBILITY AND *
PUBLIC NEED FOR THE CONNECTICUT * DOCKET NO. 370A
VALLEY ELECTRIC TRANSMISSION *
RELIABILITY PROJECTS WHICH *
CONSIST OF (1) THE CONNECTICUT *
PORTION OF THE GREATER *
SPRINGFIELD RELIABILITY PROJECT *
THAT TRAVERSES THE MUNICIPALITIES *
OF BLOOMFIELD, EAST GRANBY *
AND SUFFIELD, OR POTENTIALLY *
INCLUDING AN ALTERNATE PORTION *
THAT TRAVERSES THE MUNICIPALITIES *
OF SUFFIELD AND ENFIELD, *
TERMINATING AT THE NORTH *
BLOOMFIELD SUBSTATION; AND (2) *
THE MANCHESTER SUBSTATION TO *
MEEKVILLE JUNCTION CIRCUIT *
SEPARATION PROJECT IN MANCHESTER, *
CONNECTICUT *

AND *

THE WESTERN MASSACHUSETTS *
ELECTRIC COMPANY: *
*
SOUTHERN ROUTE ALTERNATIVE FOR *
AGAWAM TO LUDLOW 345-KV LINE THAT * DOCKET NO. 08-2
TRAVERSES ENFIELD AND SUFFIELD, *
CONNECTICUT *

* * * * *

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1 Department of Environmental Protection to be on the
2 Council. Then -- the applicant must then go to the
3 Department of Environmental Protection and obtain other
4 environmental permits; for example, a 401 Water Quality
5 Certification. You know, as would be the case in
6 Massachusetts from the DEP as well -- right? So there
7 is no comparable MEPA process per se for an energy
8 facility siting project. It's rolled into the Siting
9 Council.

10 MR. AUGUST: And the Federal Energy -- or
11 not energy, excuse me -- the environmental statute -- the
12 federal environmental statute that creates the
13 requirements for environmental studies, how does that get
14 implemented through Connecticut?

15 MS. MANGO: That is reflected in an
16 additional permit that an applicant must get from the
17 U.S. Army Corps of Engineers, as well as in, you know,
18 the approvals required from the State Historic
19 Preservation Office. The main environmental permits
20 required in Connecticut from a federal level, as they are
21 in Massachusetts, relate to watercourses and wetland
22 crossings under the Clean Water Act, Section 404.
23 There's also Section 10 of the Navigable Rivers Act --
24 Rivers and Harbors Act. And then the National Historic

1 Preservation Act requires compliance with what has been
2 delegated to the state, the State Historic Preservation
3 Office. So a Corps of Engineers permit cannot be issued
4 until, you know, the Corps is satisfied that you have
5 minimized environmental impacts across the board.

6 And then there's other federal agencies
7 that feed into that. You know, in this case the Fish and
8 Wildlife Service will play a role in reviewing the Corps
9 of Engineers permit. The National Park Service will be
10 involved because in Connecticut we cross a trail, the New
11 England National Scenic Trail that's just recently been
12 designated. So all of those federal agencies -- some of
13 them, in fact, have already commented on the Siting
14 Council process. The National Park Service in fact has.
15 But they will get a second whack during the Corps of
16 Engineers process as well.

17 So that all being said, you know, just
18 from listening to me talk, there's a lot of -- you know,
19 there's a lot of different statutes that have to be
20 considered. And we know what each agency needs in terms
21 of what they need to see demonstrated for their approval.
22 So that's why I think Mr. Carberry referred to the Corps
23 of Engineers process as being, you know, very important
24 in terms of our review of these different routes, because

1 in the first place we're on existing rights-of-way for
2 both the Northern and Southern alternatives. And that's
3 a major federal criteria. They like you to co-locate on
4 existing corridors whenever possible rather than create a
5 new greenfields corridor. But then the second thing is
6 under the Clean Water Act a permit can't be issued until
7 you've demonstrated that you've minimized environmental
8 impacts across the Board. And the Corps, while their
9 jurisdiction is focused on the Clean Water Act, they will
10 look at ancillary effects; for example, federally
11 endangered species, the cultural resources. And if you
12 are disturbing more ground -- for example as in the case
13 would be if the Southern Route is chosen, but the 115-kV
14 still needed to be rebuilt along the Northern Route, the
15 cumulative impact of the more ground disturbance, which
16 could cause runoff into waters of the U.S. despite your
17 best effort, all of that are things that the Corps wants
18 considered. And all of those factors also are
19 qualitatively factored into the company's decision to
20 select the Northern Route.

21 MR. AUGUST: Thank you. Where -- where is
22 the -- what is the timing of the Army Corps process
23 relative to this case?

24 MS. MANGO: Others can chime in, but as I

1 always say the Corps marches to their own drummer. The
2 Corps typically will wait to act until the Siting Boards
3 have determined the need, you know in this case since
4 that's a Siting Board jurisdiction, and selected a route.
5 In this case the companies have actually filed an
6 application with the Army Corps this past summer. And my
7 understanding is the Corps is looking at that, but it's
8 very doubtful that they'll act on anything until the EFSB
9 and the Siting Council act. And if somebody else has a
10 different opinion on the panel, they're certainly welcome
11 to chime in. But the Corps process, typically for a
12 project like this, would take a year.

13 MR. AUGUST: And what would be the final -
14 - what would be the end result? Would they issue a
15 report or a ruling?

16 MS. MANGO: The Corps would issue a permit
17 with conditions attached. On other projects that we've
18 recently done for CL&P, for example the
19 Middletown/Norwalk Project, it was all in Connecticut,
20 but it was about 69 miles long, and the Corps issued a
21 permit after the Siting Council had acted. That permit
22 included various conditions in addition to those
23 reflected in the Siting Council certificate. And they
24 range from mitigation for wetland impacts that could not

1 be avoided. As part of the permit, the applicants, CL&P
 2 in this case had to demonstrated that wetlands were
 3 avoided and minimized. And any impacts that could not be
 4 avoided or minimized had to be mitigated. So part of the
 5 Corps permit -- a major component was the Wetland
 6 Mitigation Program for example that created and preserved
 7 wetlands. And then other conditions may be related to
 8 timing for endangered species, you know, things about
 9 cultural resources, that type of thing. And all of that
 10 the company, in this case CL&P took and factored into
 11 their final construction specifications.

12 MR. AUGUST: Can construction begin prior
 13 to the issuance of the Corps permit?

14 MS. MANGO: Not in -- not construction
 15 that would affect any water resource. I do believe on
 16 the M/N Project, CL&P, once they were certain that a
 17 permit was going to be issued, just working out
 18 administrative details, they were able to start on upland
 19 areas; for example, like work in a road or on an upland
 20 portion of a right-of-way that wasn't near any water
 21 resources.

22 MR. AUGUST: Thank you. One more question
 23 about costs. Somebody had asked a question earlier
 24 whether the Southern Route if it cost more than the

1 looking to see that regionalization of costs occurs on
 2 projects that have been built at their lowest reasonable
 3 practical cost.

4 MR. AUGUST: Thank you. I'm going to pass
 5 the mic down to the rest of the folks.

6 COURT REPORTER: One moment please.
 7 (Pause - tape change)

8 MR. WILLIAM FEBIGER: I wanted to ask a
 9 question that would relate to the questioning by Mr.
 10 August. And going back to Mr. Carberry, I believe you
 11 mentioned in response to the Connecticut Attorney General
 12 that in comparing a shift -- in analyzing a shift from
 13 the Northern Route to the Southern Route, how would the
 14 environmental impacts change. And I believe you said
 15 that all the work that would be done on the Northern
 16 Route under the Northern Alternative would still be done
 17 if you used the Southern Alternative. And I think you
 18 were talking about environmental impacts. Did I hear you
 19 right? Are you, in essence, saying that the impacts on
 20 the Northern Route would be the same -- or any class of
 21 impacts would be the same if the Northern Route or
 22 Southern Route were used?

23 MR. CARBERRY: Not exactly. Let me try to
 24 be clearer. If the Southern Route was used for the 345-

1 Northern Route, would that additional cost be borne by
 2 Connecticut customers alone or would it be borne in some
 3 other way. Could somebody address that question please?

4 MR. CARBERRY: If -- if built as proposed,
 5 either way we would expect that this project would
 6 qualify for regionalization in ISO New England's
 7 transmission cost allocation process. In which case
 8 Connecticut's current percentage of regional projects is
 9 27 percent. So regardless of which route it was built
 10 on, if it all qualified for regionalization, Connecticut
 11 would pay 27 percent. To the extent that a higher cost
 12 project is chosen, Connecticut would expect to pay 27
 13 percent of that higher cost.

14 Now ISO New England in their process would
 15 be looking at whether the lowest reasonable cost project
 16 that could have been built was in fact built. So if in
 17 fact they believe that a lower cost project could have
 18 been built that's feasible and practical but it was not
 19 and it was not because of a particular siting decision,
 20 for example they could chose to localize those additional
 21 costs. In this case I'm not sure whether they would
 22 localize it on two states or one state. I'm not sure
 23 that kind of a precedent has come before them yet. But
 24 in their transmission cost allocation process they are

1 kV line, the construction that would occur on the
 2 Northern Route would be different --

3 MR. FEBIGER: Right --

4 MR. CARBERRY: -- but all of the 115-kV
 5 line construction and reconstruction on the Northern
 6 Route is still necessary. It would -- it would be
 7 different to the extent that our present plan on the
 8 Northern Route is that one of the 115-kV circuits would
 9 share a structure with the 345-kV line. If there is no
 10 345-kV line there, the 115-kV line would have to be on
 11 its own structures. So there would still be another line
 12 of structures. It would not be as tall if it only needed
 13 to support a 115-kV line. And to the extent that there
 14 is any small widening of a right-of-way required any
 15 stretch along that route, if there's no 345-kV line
 16 there, there's a little bit -- there's less chance that
 17 that widening is required. So those are the two basic
 18 characteristics by which the project would be different
 19 on the Northern Route if the Southern Route was chosen
 20 for a 345-kV line.

21 For the benefits of others who may not be
 22 aware, from Ludlow to the Shawinigan area there are three
 23 115-kV circuits today. And everywhere west of there --
 24 from there all the way through Agawam to the state line