

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. 370A</p> <p>December 1, 2009</p>
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OBJECTIONS OF THE CONNECTICUT LIGHT AND POWER COMPANY TO ADMISSION OF TESTIMONY SUBMITTED WITH PHOTOGRAPHS OF CITIZENS AGAINST OVERHEAD POWER LINE CONSTRUCTION AND REQUEST OF THE SAME TO SUBMIT ADDITIONAL VIDEO MATERIALS

The Connecticut Light and Power Company (“CL&P”) files these objections to two recent submissions of the Citizens Against Overhead Power Line Construction (CAOPLC): first, a November 20, 2009 document captioned “Photographs of Newgate and Phelps Roads The Metacomet Trail Area and North Suffield” (“the Newgate Photographs”) and second, a November 25, 2009 letter by counsel for CAOPLC requesting an extension of time to submit additional materials, including “videos.” For the reasons set forth more fully herein CL&P objects both to the admission of the

testimonial commentary that accompanies the Newgate Photographs and to the further request to file additional materials. CL&P requests that the commentary be stricken, or in the alternative that it be given the opportunity to cross-examine CAOPLC with respect to the new testimony. Likewise, CL&P asks that the Council deny CAOPLC's request to submit the additional video materials.

FACTS

By Notice dated November 6, 2009 (attached hereto as Exhibit A), the Council granted CAOPLC's October 30, 2009 request "to submit photographs of the existing transmission line in 'leaf-off' conditions," and ordered said photographs to "be submitted to the Council no later than 4:00 PM on November 20, 2009" and that any objections thereto "be submitted to the Council by December 4, 2009." According to the Council's website CAOPLC filed the Newgate Photographs on November 20, 2009 (*see* Exhibit B attached hereto). In addition to the thirty-four photographs submitted, however, this document also juxtaposes each photograph with extensive testimonial commentary. In particular, CAOPLC attempts to offer what appears to be expert testimony that certain homes pictured are within the "fall zone" of the 115 kV tower.¹ (*See, e.g.,* Ex. B, Picture Nos. 6-7, 9 & 31-32.)

Not satisfied with the indulgence already granted it by the Council CAOPLC requested through counsel by letter dated November 25, 2009 (attached hereto as Exhibit C) additional time to submit an unspecified number of videos of unspecified content.

¹ CL&P incorporates by reference the facts and argument set forth in its September 17, 2009 Objection to Admission of Proposed Testimony of CAOPLC at pages 1-3, which are equally applicable to the proposed testimony in the commentary of the Newgate Photographs. Although objectionable on several grounds, the proffered "fall zone" testimony is not within the scope of the joint hearings, which concern the environmental impacts, relative costs and reliability concerns of the Northern and Southern routes.

Ignoring the lack of any permission to file videos or even any request for such permission in the first place, the stated reason for not having been able to file the videos along with its November 20, 2009 submission was that counsel for CAOPLC was ill.

DISCUSSION

The proffered testimony is inadmissible for many reasons. First, CAOPLC had permission to submit photographs **only**. CL&P does not object to a limited description of the photographs in order to identify the date of the picture and the location of the subject. However, in providing expert-type testimonial commentary beside each photograph, CAOPLC grossly exceeds the bounds of its original request and the terms of the Council's permission as noticed. CAOPLC was not given permission to file additional testimony.

Moreover, the photograph commentary is not attributed to any disclosed expert who might be qualified to testify, for instance, that certain homes are within a "fall zone" of the 115-kV towers. Nor has CAOPLC provided any evidentiary foundation for such new testimony. Even if the testimony were properly before the Council, CAOPLC fails to demonstrate how the "fall zone" testimony is relevant to the issues that the Council must decide. As demonstrated elsewhere, *see supra* note 1, such testimony is not within the scope of the joint hearings.

In any event, CL&P has not had the opportunity question CAOPLC concerning the newly proffered "fall zone" assertions. If for some reason the Council were to admit the proffered testimony, in fairness it should permit CL&P to cross-examine CAOPLC on that issue.

In the same way, the Council should deny CAOPLC's request for additional time to submit videos. CAOPLC was given permission to file *photographs*, not testimony and not videos. Respectfully, CL&P submits that the Council's indulgence of CAOPLC's original request was more than sufficient to address CAOPLC's interests. CAOPLC has already transgressed the bounds of that indulgence by submitting new testimony along side the permitted photographs. Now it seeks to take further license by requesting extra time to file videos that it has no permission to file in the first place.

Moreover, CAOPLC has not offered any justification for the need to submit videos in addition to the photographs already provided, let alone justification for more time to do so. Although CL&P appreciates that the health of counsel can impact a party's compliance, CAOPLC has failed to explain why although it was able to file the Newgate Photographs on November 20, 2009 it could not have filed the video materials at the same time.²

Finally, CL&P is unaware of the content of the proffered videos. CAOPLC has not even specified how many videos it intends to submit, let alone how they might relate to the issues before the Council. Accordingly, should the Council for some reason determine to permit the filing of the videos, CL&P should be given a reasonable opportunity both to object to their admission and, if necessary, to cross-examine CAOPLC concerning any testimonial evidence provided therein.

² Counsel for CAOPLC indicated that the proffered videos would be filed "no later than Tuesday December 1 at 4 p.m." (Ex. C.) Counsel for CL&P has not yet been served with nor seen any such submission as of the filing of these objections.

CONCLUSION

The Council should restrict its consideration to the issues for which the hearings have been noticed, and reject the proffered testimonial commentary in the Newgate Photographs. Likewise, it should deny CAOPLC's request for additional time in which to submit unspecified videos. In the alternative, the Council should permit CL&P the opportunity to cross-examine CAOPLC concerning the newly proffered testimony and to respond to whatever may be in the proffered videos.

Respectfully submitted,

**THE CONNECTICUT LIGHT AND
POWER COMPANY**

By: _____



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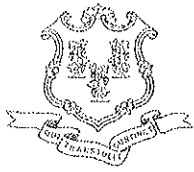
CERTIFICATION

This is to certify that a copy of the foregoing has been served on this 1st day of December, 2009 upon all parties and intervenors as referenced in the Connecticut Siting Council's Service List dated November 13, 2009.



Sherwin M. Yoder

EXHIBIT A



STATE OF CONNECTICUT

CONNECTICUT SITING COUNCIL

Ten Franklin Square, New Britain, CT 06051

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E-Mail: siting.council@ct.gov

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DATE: November 6, 2009

TO: Parties & Intervenors

FROM: S. Derek Phelps, Executive Director, Connecticut Siting Council

RE: **DOCKET 370** – Consolidated proceeding pursuant to the Connecticut Energy Advisory Board (CEAB) Request for Proposal (RFP) process under C.G.S. §16a-7c. **Original application:** The Connecticut Light & Power Company application for Certificates of Environmental Compatibility and Public Need for the Connecticut 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. **Competing application:** NRG Energy, Inc. application pursuant to C.G.S. §16-50/(a)(3) for consideration of a 530 MW combined cycle generating plant in Meriden, Connecticut.

During the evidentiary hearing for the above-referenced docket held on Thursday, November 5, 2009, the Connecticut Siting Council ("Council") acknowledged that the Testimony of Richard Legere dated September 15, 2009 is incorporated into the subsequently filed Testimony of Citizens Against Overhead Power Line Construction ("CAOPLC") dated October 30, 2009. In its ruling on CL&P's Objection to Portions of the Testimony of Richard Legere dated November 4, 2009 and on the Response of CAOPLC to CL&P's Objection to Portions of the Testimony of Richard Legere dated November 4, 2009, the Council struck Lines 1260-1277 of the CAOPLC testimony dated October 30, 2009. This ruling to strike necessarily applies to Lines 1002-1019 of the Testimony of Richard Legere dated September 15, 2009 based on the incorporation of the September 15, 2009 testimony into the October 30, 2009 testimony as referenced above. The remaining portions of the CAOPLC Testimony dated October 30, 2009 were admitted into the record.

The Council also granted CAOPLC's request dated October 30, 2009 to submit photographs of the existing transmission line in "leaf-off" conditions. Said photographs shall be submitted to the Council no later than 4:00 PM on November 20, 2009. Any objections thereto by any party or intervenor are requested to be submitted to the Council by December 4, 2009.

The Council announced that parties or intervenors intending to access the LEI Model Price Data that is subject to Protective Order dated October 26, 2009 shall execute the Non-Disclosure Agreement attached to the Protective Order. The original Non-Disclosure Agreements shall be

retained by the Council and copies of the executed Non-Disclosure Agreements shall be sent to each party and intervenor on the service list.

The Council also announced that additional interrogatories shall be issued to CL&P and ISO-New England ("ISO"). Responses to those interrogatories are requested by November 20, 2009. Any party or intervenor seeking cross-examination on CL&P and ISO's responses to the Council's additional interrogatories shall make a request to do so by December 4, 2009. If cross-examination is not requested by any party or intervenor on the interrogatory responses, briefs and proposed findings of fact may be filed with the Council no later than January 4, 2010. However, in the event that cross-examination is requested by any party or intervenor on the interrogatory responses, a new deadline date will be announced for the filing of briefs and proposed findings of fact.

SDP/MB/laf

EXHIBIT B

RECEIVED
NOV 20 2009

CONNECTICUT
SITING COUNCIL

Citizens Against Overhead Power Line Construction

Photographs of Newgate and Phelps Roads

The Metacomet Trail Area

and

North Suffield.

Prepared






for the

Connecticut Siting Council




Docket 370

November 20, 2009





CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
1		<p>Newgate Road home. 1200's area. Tower sited to the East of property. Metacomet Trail in background.</p>
2		<p>Newgate Road home. 1200's area. Tower sited to the East of property. Metacomet Trail in background.</p>
3		<p>Wyncairne area power 115 kV 70 foot lattice tower. Tower is located on a high hill with a territorial view. New 135 foot tower would be very conspicuous throughout Newgate Road, Copper Hill and surrounding area.</p>
4		<p>Zaugg home. Right behind the home is the power tower shown in photo 3 above.</p>
5		<p>Territorial view of East Granby's Wyncairne Neighborhood looking West. All homes currently access area by driving under these 115 kV power lines.</p>





CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
6		<p>Home 1 on Newgate Road South of intersection with Copper Hill Road.</p> <p>Home is within fall zone of 115 kV tower.</p>
7		<p>Home 2 on Newgate Road South of intersection with Copper Hill Road.</p> <p>Home is within fall zone of 115 kV tower. This home would have been shown in the last scene of Truescape if the Newgate/Copperhill Truescape simulation had progressed another 100 feet. (See: intersection showing STOP and 35 mph sign)</p>
8		<p>Same fall zone home as above. Picture shot at very front of drive way.</p> <p>View taken from very bottom right hand location of above photo in the home's driveway.</p>





CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
9		<p>Home 3 on Newgate Road South of intersection with Copper Hill Road.</p> <p>Home is within fall zone of proposed 345 kV tower. This home would have been shown in the last scene of Truescape if the Newgate/Copperhill Truescape simulation had progressed another 100 feet. (See: intersection showing STOP and 35 mph sign)</p>
10		<p>Home 4 on Newgate Road South of intersection with Copper Hill Road. Power lines visible and close to home in backyard.</p>
11		<p>Copper Hill area home. – Country Club Lane</p>
12		<p>Wider shot of Copper Hill area homes – Country Club Lane</p>





CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
13		<p>Home 5 on Newgate Road South of intersection with Copper Hill Road. Power lines visible and close to home in backyard.</p>
14		<p>Hay Field at 1204 (Legere) and 1208 (Harris) Newgate Road looking NORTH.</p> <p>This is the area mentioned to CSC where it is requested that current and any further poles be sited to WEST to add distance from Homes at 1204 and 1208. The Lomenza Cow solution is how we referred to it.</p>
15		<p>Same Hay Field at 1204 and 1208 Newgate Road looking NORTH showing distance to East of ROW.</p> <p>This is the area mentioned to CSC where it is requested that current and any further poles be sited to WEST to add distance from Homes at 1204 and 1208. The Lomenza Cow solution is how we referred to it.</p>
16		<p>Hay Field at 1204 and 1208 Newgate Road looking SOUTH. Power pole could be moved westward. Pole in foreground is shown later from the front yard views of the Harris home at 1208 Newgate.</p> <p>This is the area mentioned to CSC where it is requested that current and any further poles be sited to WEST to add distance from Homes at 1204 and 1208. The Lomenza Cow solution is how we referred to it.</p>





CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
17		<p>More eastward angle of Hay Field at 1204 and 1208 Newgate Road looking SOUTH. Power pole could be moved westward. Pole in foreground is shown later from the front yard views of the Harris home at 1208 Newgate.</p> <p>On left side of photo seen through trees is the Harris post and beam horse barn that CL&P plans to remove.</p>
18		<p>Front yard view from the Harris property at 1208 Newgate looking WESTWARD towards ROW.</p> <p>Barn is in ROW. 345 kV line would run (approximately) over the top of the barn.</p>
19		<p>Front yard view from the Harris property at 1208 Newgate looking WESTWARD towards ROW.</p>
20		<p>Front porch view from the Harris property at 1208 Newgate looking WESTWARD towards ROW.</p>





CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
21		<p>View of home at 3131 Phelps Road. The very first Truescape simulation in "leaf up" conditions ended just in front of this home (Eastward. If the simulation had continued this is the view in "leaf up" and "leaf down" conditions.</p> <p>View is looking SOUTHWARD toward crest of Metacomet Ridge. Over the top of the ridge is Suffield's SUNRISE PARK which is shown in a following picture.</p>
22		<p>View of home at 3131 Phelps Road and neighboring home.</p>
23		<p>Phelps Road home with 115 kV tower visible in back yard.</p>
24		<p>Phelps Road home with 115 kV tower visible in back yard. Different angle of same home.</p>


CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
25		<p>Phelps Road home with 115 kV tower visible in back yard.</p>
26		<p>Suffield Sportsman Club. Driveway showing 115 kV lines. The 345 kV GSRP lines will be on the other side of the drive way. Children frequently attend events with their parents such as the "Turkey Shoot" marksmanship competitions.</p>
27		<p>Different view. Suffield Sportsman Club. Driveway showing 115 kV lines.</p>
28		<p>Suffield's solid waste transfer station showing 115 kV lines. My car is in foreground to show scale. Workers will be exposed to EMFs during their shifts from both the 115 kV and 345 kV power lines. Transfer station is located on other side of Mountain Road roughly on the other side of the Sportsman Club.</p>

CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
29		<p>Suffield's Sunrise Park. View is looking North at the Metacomet Trail and Metacomet Ridge.</p> <p>Suffield has zoned the ridge area as a protected zone meaning no development along the ridge line area.</p>
30		<p>View is looking WESTWARD. 115 kV towers shown crossing over at summit of hill from the Mountain Road area.</p>
31		<p>Fall Zone home on North Stone Street. View is looking WESTWARD.</p>
32		<p>Fall Zone home on North Stone Street. View is looking WESTWARD. Wide angle view.</p>

CAOPLC: NEWGATE – METACOMET AREA -- PHOTO KEY 11/20/2009

Picture Number	Picture	Comments
33		Home on North Stone Street. View is looking EASTWARD.
34		Home on North Stone Street. View is looking EASTWARD.

Notes: Please ignore the date stamp on the photos. It is incorrectly set for 2008 instead of 2009.

When taking the photographs, it is hard to get a wide enough angle to fully show the relationship of the towers to the homes. In our opinion, the photographs tend to downplay or diminish the proximity of the towers to the homes. We would encourage and welcome an in-person visit from the CSC or any CSC member to view the area in "leaf down" condition and before a final decision is made.

EXHIBIT C

Citizens Against Overhead Power Line Construction

November 25, 2009

S. Derek Phelps
Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: Docket No. 370B: NRG Energy, Inc. application Pursuant to C.G.S. §15-50(a)(3) for Consideration for a 530 MW Combined Cycle Generation Plant in Meriden, CT.

Docket No. 370A: CL&P Application for the Greater Springfield Reliability Project and the Manchester to Meekville Jct. Circuit Separation Project

Re: Requests for Extension to file CAOPLC videos

Dear Mr. Phelps:

I have the flu and am unable to deliver the videos to the CSC. I explained the situation to Attorney Bachman on November 20, who advised that a formal request is the proper procedure. Attorney McGrath is not able to draft this request as he is travelling.

If there is no objection, I would like to deliver the videos to the CSC no later than Tuesday December 1 by 4 p.m.

Respectfully,

Richard Legere, Executive Director
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