

STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL

NORTHEAST UTILITIES SERVICE  
COMPANY APPLICATION TO THE  
CONNECTICUT SITING COUNCIL  
FOR A CERTIFICATE OF  
ENVIRONMENTAL COMPATIBILITY  
AND PUBLIC NEED ("CERTIFICATE")  
FOR THE CONSTRUCTION OF A  
NEW 345-KV ELECTRIC TRANSMISSION  
LINE FACILITY AND ASSOCIATED  
FACILITIES BETWEEN SCOVILL  
ROCK SWITCHING STATION IN  
MIDDLETOWN AND NORWALK  
SUBSTATION IN NORWALK, INCLUDING  
THE RECONSTRUCTION OF PORTIONS  
OF EXISTING 115-KV AND 345-KV  
ELECTRIC TRANSMISSION LINES,  
THE CONSTRUCTION OF BESECK  
SWITCHING STATION IN  
WALLINGFORD, EAST DEVON  
SUBSTATION IN MILFORD, AND  
SINGER SUBSTATION IN BRIDGEPORT,  
MODIFICATIONS AT SCOVILL ROCK  
SWITCHING STATION AND NORWALK  
SUBSTATION, AND THE  
RECONFIGURATION OF CERTAIN  
INTERCONNECTIONS

DOCKET NO. 272

MAY 10, 2004

THE MUNICIPALITIES OF BETHANY, CHESHIRE, DURHAM, EASTON,  
FAIRFIELD, HAMDEN, MIDDLEFIELD, MILFORD, NORTH HAVEN,  
NORWALK, ORANGE, WALLINGFORD, WESTON, WESTPORT, WILTON,  
AND WOODBRIDGE

MOTION TO RESCHEDULE CERTAIN FILING DATES AND TO ADD  
ADDITIONAL HEARING DATES

The above-captioned municipalities (collectively, the "Towns"), each a party to this proceeding, respectfully request that the Connecticut Siting Council (the "Council"): (1) permit the Towns to file certain testimony (as more particularly described *infra*, the "May Testimony") on May 25<sup>th</sup>, 2004, for the

hearings to be held during June, 2004 in this proceeding (the "June Hearings");<sup>1</sup> (2) permit the Towns to file their testimony identifying potential alternatives to the Applicants' proposed route based on modeling being done by GE Power Systems ("GE") for the Towns and independent load flow analyses (the "July Testimony") on July 7, 2004; and (3) schedule additional hearings on the subject matter of the July Testimony.

The Towns feel it is essential that they emphasize two facts in this Motion. First, as will be explained below, the need for the relief requested herein is in no way the Towns' fault or responsibility, or the result of their failure to pursue discovery in an expeditious manner. Second, the Towns' consultants cannot complete their analyses of possible alternatives to the Applicants' proposed route and the Towns' identification of feasible alternative routes, without the information that will be provided in the GE studies. The Towns have been stymied since February in their efforts to complete their analyses, and they will continue to be prevented from completing these analyses until they have received the necessary results from GE in mid-June. The Towns believe that their analyses would already have been available if the Applicants and GE had immediately provided the information requested by the Towns on January 28, 2004.

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<sup>1</sup>The current deadline for the May Testimony is May 18, 2004.

## **Factual Background**

### 1. The GE studies

On January 28<sup>th</sup>, 2004, the Towns served discovery requests on The Connecticut Light & Power Company ("CL&P") and the United Illuminating Company ("UI"; CL&P and UI are hereinafter referred to collectively as the "Applicants"), seeking: (1) information regarding the Applicants' "East Shore Alternative"; and (2) access to the models used in analyzing this alternative route. It was essential for the Towns to have access to these models in order to analyze the work performed by the Applicants and to be able to propose other alternatives for the Council's consideration.

The Towns were met with resistance. After weeks of delay, the Applicants and GE flatly refused to provide either the GE models or the electronic data necessary for the Towns' consultants to use those models, based on a claim that the models were proprietary to GE (even though the Applicants rely on the results of those models in public filings with the Council).

The Towns then talked with the Applicants on several occasions about their need for the GE models and the related electronic data. Because these discussions were unsuccessful, the Towns filed a Motion to Compel on March 5, 2004. This Motion was granted by the Council on March 17, 2004. The Applicants, however, refused to comply with that Order and continued to fail to provide the necessary models and data.

Throughout the latter part of March and the month of April, the Towns, the Applicants and GE conducted a complicated negotiation process during

which GE continued to refuse the Towns' consultants access to their models. Finally, two weeks ago, an agreement was reached whereby GE would run scenarios for the Towns using GE's harmonics model and the Applicants would pay GE to run those scenarios. The Towns' consultants would not be permitted actual access to the GE models. Although the Towns feel disadvantaged by this arrangement, the Towns agreed that they will rely on GE personnel to conduct the studies.

In the past two weeks, the Towns' consultants have provided the necessary data to GE, and the Applicants and GE have arranged for the appropriate purchase order(s) to be issued. GE has indicated that it expects to start on the Towns' studies on or about May 12, 2004. GE has said that they will need thirty-five (35) days to complete that work. This suggests that the Towns' consultants will receive the results of the GE studies on or about June 16, 2004. The Towns' consultants will require at least three weeks; i.e., until July 7, 2004, to analyze those results and prepare the July Testimony

2. The Towns' 5<sup>th</sup> set of discovery requests

On March 23, 2004, the Towns submitted a Fifth Set of Interrogatories (the "Fifth Set") to the Applicants. The Fifth Set contained (7) questions and requested responses thereto on or before April 6, 2004. Those responses were essential to the Towns' ability to prepare and file the May Testimony. In their responses to the Fifth Set (filed on April 15<sup>th</sup>, 2004), the Applicants objected to answering questions numbered (2) through (5) thereof (the "Questions").

Counsel for the Towns repeatedly contacted the Applicants' Counsel in an effort to resolve the issues concerning the Applicants' objection to the Questions. Those issues were finally resolved on May 5, 2004.

3. The Towns' 6<sup>th</sup> Set of Discovery Requests

The Towns reviewed the materials provided in response to its prior discovery requests and discovered that the East Shore Route studied by the Applicants did not include all of the engineering improvements contemplated in the current proposal. The Towns served follow-up discovery requests to the Applicants on this issue on April 2, 2004 (the "Sixth Set"); responses to the Sixth Set were due on April 19, 2004. Those responses were also essential to the Towns' ability to prepare and file the May Testimony. Furthermore, the Towns were advised that GE needed that information to proceed with the studies commissioned by the Towns. The Towns did not receive the information requested in the Sixth Set until April 30, 2004, which delayed the Towns' commencement of work necessary to prepare its case for the June Hearings.

**Discussion**

The result of the events discussed *supra* has been that the Towns will be unable to file their May testimony (a critique of the Applicants' testimony and analyses that is currently due on May 18, 2004) until May 25, 2004. Permitting the Towns to file the May Testimony on May 25, 2004, will not prejudice the other participants in Docket No. 272, as those participants will still have a full week to review that testimony and prepare cross-examination, if necessary, for the June Hearings. Other participants in this proceeding have been allowed similar extensions to previous pre-filing deadlines.

Additionally, the Towns will be unable to file their July Testimony until July 7, 2004, because, as noted *supra*, GE is not expected to complete its studies for the Towns until on or about June 16, 2004. After the GE studies are completed, the Towns' consultants will need time to review the study reports, integrate the results with their own studies, and then prepare and file the July Testimony. Because of the Towns' inability to file their July Testimony before July 7, 2004, it will be necessary for the Council to schedule additional hearings on the July Testimony.<sup>2</sup>

The Towns emphasize that they are not requesting any delay of the June Hearings. It is the Towns' position that the June Hearings should go on as scheduled; the Towns will be prepared to cross examine and will present a direct case based on their May Testimony. It is anticipated that the additional hearing dates requested herein will address alternatives to the Applicants' proposal.

### **Requested Relief**

Each of the Towns is a party to this proceeding. Conn. Gen. Stat. § 16-50o(a) provides in pertinent part that “[e]very party. . .shall have the right to present such oral or documentary evidence. . .as may be required for a full and true disclosure of the facts.” (Emphasis added). The aforesaid events (which were not caused by the Towns) will deny the Towns their statutory right to present their case unless the Council grants the relief requested *infra*. More fundamentally, the failure of the Council to grant the requested relief will deny the Towns a “full and true disclosure of the facts,” to which they are entitled as

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<sup>2</sup> The Towns note that Counsel for certain of the Towns (and for CL&P) will be unavailable on July 12<sup>th</sup> and 13<sup>th</sup>, 2004, due to court hearings in the City of Norwalk appeals of the Council's decision in Docket No. 217.

communities that may bear the burden of the Facility under review in this proceeding.

For the foregoing reasons, the Towns respectfully request that the Council:

- (i) permit the Towns to file their May Testimony on May 25, 2004;
- (ii) permit the Towns to file their July Testimony on July 7, 2004; and
- (iii) schedule additional hearings on the subject matter of the July Testimony.

Respectfully submitted,

THE MUNICIPALITIES OF  
BETHANY, CHESHIRE,  
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FAIRFIELD, HAMDEN,  
MIDDLEFIELD, MILFORD,  
NORTH HAVEN, NORWALK,  
ORANGE, WALLINGFORD,  
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This is to certify that on this 10th day of May, 2004, a copy of the foregoing was either mailed, postage prepaid, or hand-delivered to:

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