

DOCKET NO. 110A - A resolution to amend the Council's Decision and Order and Certificate of Environmental Compatibility and Public Need issued to Riley Energy Systems of Lisbon Corporation, Regional Disposal Systems of Lisbon, Inc., and Philip C. Armetta for the Lisbon Resource Recovery Facility in the Town of Lisbon, Connecticut, for changes in the sources of waste as identified in the Council's Findings of Fact and Decision and Order.

: Connecticut
 : Siting
 : Council
 : October 4, 1993

Findings of Fact

1. On February 5, 1990, the Connecticut Siting Council (Council) issued a Certificate of Environmental Compatibility and Public Need (Certificate) to the co-applicants, Riley Energy Systems of Lisbon Corporation (RESOL), Regional Disposal Systems of Lisbon, Inc. (RDSL), and Philip C. Armetta for the construction and operation of a municipal solid waste (MSW) fueled electric generating facility (Facility) in the Town of Lisbon, Connecticut (Docket No. 110). (Council February 5, 1990, Docket No. 110 Decision and Order (D&O))

2. Section 1g of the Docket No. 110, February 5, 1990, D&O, stated:

"The Certificate holder shall submit confirmation of executed contracts for acquisition of MSW totalling 425 tons per day with participating communities that have been identified as having submitted letters of intent or letters of interest to the applicant through the course of the proceeding. Communities that are members of the Northeastern Connecticut Regional Resource Recovery Authority (NECRRRA) shall be given first consideration to execute contracts with the applicant."

The Council did not specify any specific requirements for the contracts. (Docket No. 110 D&O, p. 2)

3. The participating communities identified in the Council's Finding of Fact (FOF) and Decision and Order (D&O) that submitted letters of intent or interest through the course of the proceeding are as follows:

<u>Community</u>	<u>Distance from Facility (miles)</u>
Lisbon	0
Canterbury	10
Plainfield	10

<u>Community</u>	<u>Distance from Facility (miles)</u>
Scotland	12
Voluntown	12
Colchester	16
Columbia	16
Sterling	17
Chaplin	20
Hampton	20
East Haddam	22
Brooklyn	23
Marlborough	24
Killingly	25
Coventry	30
Pomfret	32
Haddam	35
Stafford	35
Middletown	35
Putnam	37
Cromwell	40
Thompson	40
Middlefield	42
Durham	42
Windsor Locks	52
Branford	55
Derby	66

(February 5, 1990, FOF 180-181)

4. The Council's February 5, 1990, D&O was not appealed. Pursuant to item 3 of the D&O, the Certificate holder submitted a detailed construction plan known as the Development and Management (D&M) plan to the Council and all parties and intervenors. On June 20, 1991, the Council approved the D&M plan. No party or intervenor other than the Certificate holder participated in the Council's review of the D&M plan. On May 18, 1992, the Council received a petition from the Concerned Citizens of Lisbon seeking a declaratory ruling on whether the Council's February 5, 1990, final decision remained applicable to the Facility in light of 1) the material change in the sources of waste to be delivered to the Facility, 2) the Certificate holder's failure to comply with section 1g of the D&O, and 3) the lack of any evidence in the record that alternative sites more proximate to the source of generation of such waste are not available. On July 15, 1992, the Council ruled that the Certificate holder had not yet exercised its Certificate and therefore there was no violation of the Council's final decision. On April 2, 1993, the Council received a petition from the Connecticut Resources Recovery Authority (CRRRA) seeking a declaratory ruling that the 1) Certificate does not authorize the construction of the Facility described in the D&M Plan, 2) the Certificate cannot be transferred except pursuant to Connecticut General Statutes (CGS) section 16-50k, and 3) because RESOL cannot obtain the required minimum amount of waste from the required communities specified in the Certificate, the Certificate should be invalidated or at a minimum amended. On April 22, 1993, the

Council ruled that there 1) was no substantial changes proposed for the Facility, 2) was no transfer of the Certificate, and 3) were no violations of the D&O regarding the sources of waste to fuel the Facility at that time. (Docket No. 110 Record; Petition 282 and 302 record)

5. On June 23, 1993, RESOL submitted its Notice of Intention to Commence Construction of the Lisbon Resource Recovery Facility to the Council (Notice). The Notice included the Connecticut Department of Environmental Protection's (DEP) final Determination of Need pursuant to CGS section 22a-208d, the DEP air compliance permits for the construction of boilers and ash management system, DEP solid waste permit for construction of a resource recovery facility, DEP approval to install a stormwater collection and treatment system and non-contact and contact cooling wastewater handling facilities, DEP approval of the sewer connection, and a permit to construct a sewage disposal system from the Towns of Griswold and Lisbon, Connecticut. The notice also specifies the following communities to participate in the Facility:

Community

Lisbon
Canterbury
Plainfield
Scotland
Hampton
Chaplin
Killingly
Eastford
Ashford
Thompson
Clinton
Union
Middletown
New Haven
Bethel
Bridgewater
Brookfield
Danbury
Kent
New Fairfield
New Milford
Newtown
Redding
Ridgefield
Sherman

(RESOL 1)

6. At a public meeting on July 14, 1993, the Council approved a resolution to consider amending its D&O and Certificate issued in Docket No. 110 for changes in the sources of waste identified in the Council's FOF and D&O (Resolution). (July 14, 1993, Council Resolution)

7. On June 30, 1993, the Council received a petition from the CRRA seeking a declaratory ruling that 1) because RESOL obtained neither the required minimum amount of waste from the required communities specified in the D&O nor an amendment of its Certificate, RESOL has not met the conditions of its Certificate and cannot proceed with construction, and 2) because the new towns RESOL proposes to serve at the Facility can be served without constructing a new source of pollution, CGS sections 22a-14 through 22a-20 prevent RESOL from substituting the new towns for the towns required by the Certificate. On July 14, 1993, the Council determined that a decision on this petition for a declaratory ruling would be postponed until a decision is rendered on the Resolution. (Petition 309 Record)

8. The Council scheduled a public hearing on August 17, 1993, at the Lisbon Central School in Lisbon, Connecticut. The hearing was continued on August 18 and 23, 1993, at the Council's meeting room in New Britain, Connecticut. (Council Hearing Notice; August 17, 1993, Transcript (Tr.1); August 18, 1993, Transcript (Tr. 2); August 23, 1993, Transcript (Tr. 3))

9. RESOL and its parent company Wheelabrator Environmental Systems, Inc. (WESI) have MSW supply and disposal agreements sufficient to supply the Facility with a minimum of 425 tons per day (tpd) as follows:

Specified by Council	tpd*	Not Specified by Council	tpd*	Distance to Facility (Miles)	Status
Lisbon	8			0	Host Contract
Canterbury	7.68			10	Served by Yaworski, Inc.
		Yaworski Inc. Transfer Station (Yaworski)	20	10	Yaworski Contract
Plainfield	27.84			10	Served by Yaworski
Scotland	3			12	Partially served by Yaworski
Hampton	3			20	Partially served by Yaworski
Chaplin	4			20	Served by Yaworski
Killingly	31.68			25	Partially served by Yaworski
		Eastford	1	30	Partially served by Yaworski
		Ashford	4	31	Partially served by Yaworski
Middletown	90			35	RESOL Contract
Thompson	18.24			40	Partially served by Yaworski
		Clinton	3	42	Partially served by Yaworski
		Union	1	44	Served by Yaworski
		New Haven	110	56	WESI Contract
			to		
			150		

Specified by Council	tpd*	Not Specified by Council	tpd*	Distance to Facility (Miles)	Status
		Housatonic Resources Recovery Authority (HRRRA)	316	78 to 93	WESI Contract
Total tpd: 193.44 + 455 to 495 = 648.44 to 688.44					

The following municipalities either identified in the Council's FOF or located in eastern Connecticut, including former participants of the Windham Energy Recovery Facility (WERF) do not have contracts with the Facility:

Specified by Council	tpd*	Not Specified by Council	tpd*	Distance to Facility (Miles)	Status
		Franklin	4	9	Southeastern CT Regional Resources Recovery Authority (SCRRA) Contract
Voluntown	4			12	SCRRA Contract
Colchester	19			16	SCRRA Contract
Columbia	8			16	SCRRA Negotiation
Sterling	4			17	SCRRA Negotiation
		Windham	34	19	SCRRA Negotiation
E. Haddam	14			22	SCRRA Negotiation
Brooklyn	14			23	Landfill Closing
Marlborough	11			24	CRRA/SCRRA Negotiation
		Hebron	8	28	Uncertain
		Mansfield	10	29	Uncertain
Coventry	20			30	CRRA Contract
Pomfret	5.76			32	NECRRA Negotiation
		Bolton	7	32	CRRA Negotiation
		Woodstock	3.84	34	NECRRA/CRRA Negotiation
Haddam	15			35	CRRA Contract
Stafford	22			35	WESI Negotiation
Putnam	19.2			37	NECRRA Negotiation
		Tolland	12	37	Uncertain
Cromwell	25			40	CRRA Contract
Durham	12			42	CRRA Contract
Middlefield	9			42	CRRA Contract
Windsor	60			52	CRRA Contract
Locks					
Branford	56			55	Bristol Resource Recovery Facility
Derby	27			66	Uncertain
Total tpd 344.96 + 78.84 = 423.8					

*NOTE: tpd includes net 25 percent of recycling

(FOF 180-181; RESOL 1, Appendix J1-J5; RESOL 2, pp. 1-5, Table 1; Tr. 2, pp. 86-87, 164; Tr. 3 pp. 57-59, 161, 316-319; Connecticut's 1991-1992 Official Tourist Map)

10. The HRRRA has a twenty-six-year contract to dispose of its MSW with WESI which operates facilities in Bridgeport, Connecticut; Westchester County, New York; and Millbury, Massachusetts, and would operate the Facility. The HRRRA has agreed to supply WESI with approximately 316 tpd. Approximately 69 tpd would initially go to the Facility. Condition 25 of the DEP's solid waste permit to construct a resource recovery facility orders RESOL to dispose of all the HRRRA waste at the Facility unless displaced by other Connecticut waste. (RESOL 1, Appendix F, p. 7; RESOL 1, Appendix J3-J3-11, Tr. 2, pp. 29-30)
11. The 69 tpd of HRRRA waste to initially go to the Facility would travel from transfer stations to the Facility. The HRRRA Newtown transfer station would handle approximately 80 tpd from which it is anticipated that 69 tpd waste would be supplied to the Facility. Four transfer trailer trucks each having approximately 17 tons of MSW would be needed to transport the HRRRA waste to the Facility each day. Depending on the route, each transfer trailer truck from the Newtown transfer station would travel a daily one-way average distance of approximately 82 miles. (Tr. 3, pp. 316-317; CRRRA 4)
12. The City of New Haven, Connecticut, has a fifteen-year contract to dispose of its MSW with WESI. New Haven has agreed to deliver not less than 40,000 tons per year (approximately 110 tpd). Based on a twenty-five percent recycling rate, the City of New Haven expects to generate approximately 150 tpd. (RESOL 1, Appendix J4, pp. 1-2, 8, 23; Tr. 2, p. 161)
13. Yaworski has a five-year contract that expires in 1997 to dispose of its MSW with WESI. Yaworski has agreed to provide WESI with a minimum of 120 tpd and a maximum of 300 tpd from eastern Connecticut sources. RESOL expects Yaworski to supply approximately 105 tpd to the Facility. The WESI-Yaworski agreement stipulates that WESI has the right to deliver any portion of the MSW to the Facility. (RESOL 1, Appendix J5; RESOL 2, pp. 2-3, Tr. 3, p. 57)
14. NECRRRA towns have selected WESI as their preferred vendor for MSW disposal. Each member town of NECRRRA is responsible to elect whether or not to contract with the preferred vendor. The following NECRRRA members have yet to choose a long-term MSW disposal option: Canterbury, Killingly, Plainfield, Pomfret, Putnam, and Thompson, Connecticut. The total MSW available from these towns is approximately 110 tpd. (RESOL 2, pp. 3-4, Table 1; Tr. 2, p. 47)
15. The municipalities that participated with WERF, including Ashford, Bolton, Eastford, Hebron, Mansfield, and Tolland, Connecticut, are in the process of seeking long-term MSW disposal options because this facility closed on July 1, 1993. The total daily MSW available from these municipalities is approximately 42 tpd. (RESOL 2, p. 4)
16. Brooklyn, Connecticut, expects to close its landfill and plans to use the spot market to dispose of its approximately 14 tpd

of MSW. (RESOL 2, Table 1, p. 36)

17. Stafford, Connecticut, currently operates its own landfill. Stafford faces financial burdens if the landfill is kept operating after October 1993. Stafford generates approximately 22 tpd of MSW. (RESOL 2, p. 4)
18. Derby, Connecticut, plans to close its landfill in September of 1993, and is still considering disposal options. Derby generates approximately 27 tpd of MSW. (RESOL 2, Table 1, pp. 34, 36)
19. The environmental effects that could result by changing the participants to the Facility as proposed would consist of additional deposition of traffic-related materials from transfer trucks, including volatile solids, biological oxygen demand, chemical oxygen demand, grease, total phosphate-P, nitrate-N, nitrite-N, kjeldahl-N, chloride, petroleum, n-paraffins, asbestos fibers, rubber, lead, chromium, copper, nickel, zinc, and magnetic fraction. However, because long-haul trucks could and in some cases would be used from regional transfer stations and large urban areas instead of short-haul vehicles, it is possible that overall vehicle mileage and emissions could be either increased or decreased. (RESOL 2; RESOL 7; CRR 4; CRR 5; FOF 255, 258)
20. Assuming a 425 tpd supply and based on the Council's 1990 FOF, the shortest average distance for a ton of MSW to travel to the Facility would be approximately 29 miles per ton. The longest average distance for a ton of MSW to travel to the Facility would be approximately 39 miles per ton. (FOF 180-181; RESOL 6)
21. Assuming a 425 tpd supply and based on RESOL's Notice, the shortest average distance for a ton of MSW to travel to the Facility would be approximately 43 miles per ton. The longest average distance for a ton of MSW to travel to the Facility would be approximately 81 miles per ton. (RESOL 2; Tr. 3, pp. 316-317)
22. The Council's 1990 FOF, states that the approximate number of MSW transport vehicles entering the Facility would average 60 per day. With the current proposed MSW supply, the number of MSW transport vehicles required to supply the Facility with 425 tpd could range from approximately 25 to 70 per day. (RESOL 2; RESOL 7; CRR 4; FOF 255, 258)
23. The Facility has a 27-month maximum construction schedule following ground breaking. (Tr. 2, p. 87)