

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

IN RE: :
 :
 APPLICATION OF NTE CONNECTICUT, LLC : DOCKET NO. 470
 FOR A CERTIFICATE OF ENVIRONMENTAL :
 COMPATIBILITY AND PUBLIC NEED FOR :
 THE CONSTRUCTION, MAINTENANCE AND :
 OPERATION OF AN ELECTRIC POWER :
 GENERATING FACILITY OFF LAKE ROAD, :
 KILLINGLY, CONNECTICUT : AUGUST 29, 2016

MOTION FOR PROTECTIVE ORDER

NTE Connecticut, LLC (“NTE”) respectfully requests that the Connecticut Siting Council (“Council”) issue a Protective Order pursuant to Connecticut General Statutes section 1-210(b)(5), with respect to certain terms of an Option Agreement (the “Agreement”), dated March 4, 2016, between Geoffrey A. Sorrow, Gerald T. Erwin, Sr. and Annarita D. Erwin and NTE (the “Agreement”), submitted to the Council in connection with the above-referenced proceeding.

Connecticut General Statutes section 16-50o provides, in relevant part:

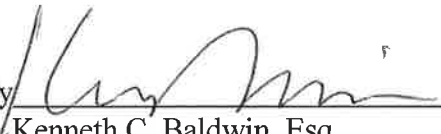
The applicant shall submit into the record the full text of the terms of any agreement . . . entered into by the applicant . . . in connection with the construction or operation of the facility. This provision shall *not* require the disclosure of proprietary information or trade secrets.

Conn. Gen. Stat. § 16-50o(c) (emphasis added). Pursuant to this requirement, NTE filed a redacted copy of the Agreement with the Council in the Docket No. 470 on or about August 26, 2016. The redacted provisions relate to financial terms contained in the Agreement (“Confidential Information”). NTE is willing to submit an unredacted copy of the Agreement to the Council subject to the issuance of a Protective Order that would limit disclosure of the Confidential Information to the Council and its staff.

As reflected in the attached Affidavit of Mark Mirabito, Vice President of NTE, the information for which NTE seeks protected treatment is commercially valuable, confidential and proprietary, market-sensitive information that constitutes trade secrets within the meaning of Connecticut General Statutes §1-210(b)(5), and which NTE has heretofore used its best efforts to maintain as secret in order to avoid the harm that would result if the Confidential Information were to become publicly available. The Council has historically granted protected treatment of similar filings.

WHEREFORE, NTE respectfully requests that the Council grant the request for protected treatment consistent with the attached Protective Order for the Agreement, which would limit disclosure of the Confidential Information to the Council and its staff.

Respectfully submitted,
NTE CONNECTICUT, LLC

By 
Kenneth C. Baldwin, Esq.
Robinson & Cole LLP
280 Trumbull Street
Hartford, CT 06103-3597
Its Attorneys

AFFIDAVIT

STATE OF Florida

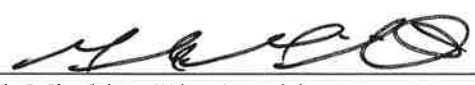
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ss. St. Augustine

COUNTY OF St. Johns


MARK MIRABITO, being duly sworn, deposes and states that:

1. I am over the age of eighteen and understand the obligation of making a statement under oath.
2. I am the Vice President of NTE Connecticut, LLC ("NTE").
3. I am familiar with the terms of the Option Agreement, dated March 4, 2016 (the "Agreement"), between Geoffrey A. Sorrow, Gerald T. Erwin, Sr. and Annarita D. Erwin and NTE for the construction of a power generating facility at 180 and 189 Lake Road in Killingly, Connecticut (the "Property").
4. A redacted copy of the Agreement was filed with the Council as a part of the Docket No. 470 application on or about August 26, 2016.
5. The redacted provisions relate to the amount of the Option payment made and the purchase price to be paid by NTE for the Property ("Confidential Information").
6. The Confidential Information is commercially valuable, confidential, proprietary and market-sensitive information that constitutes trade secrets.
7. NTE has heretofore used its best efforts to maintain the Confidential Information as secret in order to avoid the harm that would result if the information were to become publicly available.



Mark Mirabito, Vice President
NTE Connecticut, LLC

The foregoing instrument was acknowledged before me this 26th day of August, 2016 by Mark Mirabito, Vice President of NTE Connecticut, LLC, a Delaware limited liability company, on behalf of the company, as his and its free act and deed.



Commissioner of the Superior Court
Notary Public
My Commission Expires:

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PROTECTIVE ORDER

WHEREAS, NTE Connecticut, LLC (“NTE”) is willing to submit an unredacted copy of an Option Agreement, dated March 4, 2016, between Geoffrey A. Sorrow, Gerald T. Erwin, Sr. and Annarita D. Erwin and NTE (the “Agreement”), to the Council in connection with the above-captioned matter;

WHEREAS, NTE considers the financial terms of the Option and purchase price that NTE has agreed to pay to be confidential, market-sensitive and proprietary information that NTE has prior to this point, used its best efforts to keep secret (“Confidential Information”);

WHEREAS, NTE has indicated its willingness to provide the Confidential Information to the Council subject to a Protective Order;

NOW, THEREFORE, it is hereby ordered, that the following procedure is adopted for the protection of the Confidential Information:

1. The Confidential Information shall be governed by the terms of this Order. This Order is applicable to all such Confidential Information, whether in the form of documents, data, testimony, studies or otherwise.

2. All Confidential Information shall be subject to this Order and shall be given solely to the Council and its staff. It is understood and agreed that said information is confidential, market-sensitive and proprietary in nature and shall in no event be disclosed to any other person, entity, corporation or association, and shall neither be used nor discussed except for the purposes of this proceeding. All persons in receipt of any Confidential Information pursuant to this Order shall maintain a written log of all individuals granted access to the Confidential Information.

3. Confidential Information shall be marked as such and delivered in a sealed envelope to the Council.

4. All recipients shall be bound by the terms of this Order.

5. In the event that the Confidential Information is to be used in any manner in any proceeding or hearing before the Council, such proceeding or hearing shall not be held before, nor any record of it made available, to any other party, intervenor, or other person or entity. Presence at such proceeding or hearing shall be limited to the Council, its staff and representatives of NTE. No record shall be disclosed or communication made of the information at any time to any person or entity. Any transcript or other recording of the Confidential Information shall be placed in sealed envelopes or containers and a statement in the following form placed on such envelope or container:

CONFIDENTIAL INFORMATION

This envelope is not to be opened nor the contents thereof to be displayed or revealed except pursuant to the Protective Order issued in Docket No. 470.

6. No copies shall be made of the Confidential Information unless expressly ordered by the Council.

7. Nothing herein shall be construed as a final determination that any of the Confidential Information will be admissible as substantive evidence in this proceeding or at any hearing or trial. Moreover, nothing herein shall be considered a waiver of any party's right to assert at a later date that the material is or is not proprietary or privileged. A party seeking to change the terms of the Order shall by motion give every other party five (5) business days' prior written notice. No information protected by the Order shall be made public until the Council rules on any such motion to change the terms of the Order. Confidential Information otherwise properly discovered, even though also subject to the terms of the Order, shall not be considered protected by the Order.

8. No Recipient shall use or disclose the Confidential Information for purposes of business or competition, or for any other purpose, other than the purpose of preparation for and conduct of this proceeding, and then solely as contemplated herein, and shall in good faith take all reasonable precautions to keep the Confidential Information secure in accordance with the purposes and intent of this Order.

9. All copies of such Confidential Information shall be returned to NTE no later than thirty (30) days after the expiration of all appeal periods applicable to the final decision rendered in this proceeding.

CONNECTICUT SITING COUNCIL

By: _____

Dated: _____, 2016