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November 12, 2014

VIA HAND-DELIVERY

Mr. Robert Stein, Chairman
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

RE: Docket No. 192—Towantic Energy, LLC Motion to Reopen and Modify the June 23, 1999 Certificate of Environmental Compatibility and Public Need Based on Changed Conditions Pursuant to Connecticut General Statutes §4-181a(b) for the Construction, Maintenance and Operation of a 785 MW Dual-Fuel Combined Cycle Electric Generating Facility Located North of the Prokop Road and Towantic Hill Road Intersection in the Town of Oxford, Connecticut—CPV Towantic, LLC's Comments in Response to November 4, 2014 Connecticut Siting Council Memorandum to Parties and Intervenors

Dear Chairman Stein:

Enclosed are an original and fifteen (15) copies of CPV Towantic, LLC's Comments in Response to November 4, 2014 Connecticut Siting Council Memorandum to Parties and Intervenors.

Please contact Franca L. DeRosa, Esq. or me at (860) 509-6500 with any questions.

Sincerely,

BROWN RUDNICK LLP



Philip M. Small
Counsel for CPV Towantic, LLC

PMS/jmb
Enclosures

61806363 v1-022345/0005

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

TOWANTIC ENERGY, LLC MOTION TO REOPEN	:	DOCKET NO. 192B
AND MODIFY THE JUNE 23, 1999 CERTIFICATE OF	:	
ENVIRONMENTAL COMPATIBILITY AND PUBLIC	:	
NEED BASED ON CHANGED CONDITIONS	:	
PURSUANT TO CONNECTICUT GENERAL	:	
STATUTES §4-181a(b) FOR THE CONSTRUCTION,	:	NOVEMBER 12, 2014
MAINTENANCE AND OPERATION OF A 785 MW	:	
DUAL-FUEL COMBINED CYCLE ELECTRIC	:	
GENERATING FACILITY LOCATED NORTH OF THE	:	
PROKOP ROAD AND TOWANTIC HILL ROAD	:	
INTERSECTION IN THE TOWN OF OXFORD,	:	
CONNECTICUT	:	

CPV TOWANTIC, LLC'S COMMENTS IN RESPONSE TO NOVEMBER 4, 2014
CONNECTICUT SITING COUNCIL MEMORANDUM TO PARTIES AND INTERVENORS

In response to the Connecticut Siting Council's (the "Council") November 4, 2014 memorandum to Parties and Intervenors in this docket, CPV Towantic, LLC ("Towantic") offers the following comments:

1. Requests to Postpone Initial Council Action – The Town of Middlebury

("Middlebury"), and Mr. Pietrorazio, Middlebury's representative, each request that the Council postpone acting on Towantic's petition from the Council's November 13, 2014 meeting until January, 2015 or later. Based on their filings, Middlebury and Mr. Pietroazio are apparently concerned that the Council could take final action approving Towantic's Petition to Reopen and Modify the Decision in Docket No. 192 Due to Changed Conditions ("Petition") at its November 13, 2014 meeting.

Middlebury's and Mr. Pietrorazio's concerns are misplaced. Based on its longstanding two-step approach, the Council at its November 13, 2014 meeting would only consider reopening Docket No. 192. The reopening would initiate the Council's

traditional public hearing process to determine whether or not the Council should approve Towantic's Petition, including the scheduling of a public hearing in Oxford. That public hearing process would provide Middlebury, Mr. Pietroazio and other parties in the reopened docket full procedural rights, including discovery, and the opportunity to present witnesses and evidence and to cross-examine Towantic's witnesses, and ample time to exercise those rights.

The two-step reopening and public hearing process that Middlebury and Mr. Pietrorazio appear to be concerned about has been used by the Council on numerous occasions in dockets initiated pursuant to Conn. Gen. Stat. §4-181a(b). *See, e.g., Meriden Gas Turbines, LLC*, Docket No. 190B, Findings of Fact Nos. 6-9 (Sept. 19, 2013); *Lake Road Generating Company*, Docket No. 189A, Findings of Fact Nos. 7-9 (Jan. 19, 2012); *Milford Power Company, LLC*, Docket No. 187A, Findings of Fact Nos. 6-7 (Dec. 2, 2010).

Mr. Pietrorazio's filing, the joint filing by the Borough of Naugatuck ("Naugatuck") and its Water Pollution Control Authority ("WPCA"), and other filings and comments submitted to the Council raise some substantive issues. If those issues are relevant to the Council's consideration of the Petition on the merits, they can be raised by these persons during the public hearing process.

2. Procedural Issue Raised by Middlebury – Middlebury raises "preliminary issues for consideration that warrant additional attention before the pending Motion is heard..." Specifically, Middlebury claims that Towantic failed to file a "docketing statement," and violated Section 16-50j-11 of the Council's Rules of Practice because "[n]o

signatures...were submitted to the Council as to the author(s) of” Exhibits 1 and 2 to the Petition. Middlebury’s “preliminary issues” have no merit.

As to Middlebury’s docketing statement claim, the simple answer is that nothing in the Council’s Rules of Practice or other Council document requires a “docketing statement” to be filed with a petition. In fact, in the judicial system, a docketing statement is only required for an appeal from a trial court decision. See Practice Book §63-4(a)(4).

As for Middlebury’s Section 16-50j-11 claim, that section states: “Every application, notice, motion, petition, complaint, brief, and memorandum shall be signed by the filing person or by one or more attorneys in their individual names on behalf of the filing person.” Towantic’s Petition was signed by its attorney, thereby fully satisfying this requirement. Nothing in Section 16-50j-11 or other Council document requires that each exhibit to a petition filed with the Council be signed. Rather, under the Council’s long-standing practice, the exhibits must be affirmed and adopted by witnesses under oath at the public hearing.

3. Naugatuck Motion – Naugatuck and its WPCA jointly move to be designated as intervenors in this proceeding. Towantic has no objection to that request.

However, certain statements in their joint filing are puzzling. Specifically, Naugatuck and its WPCA allege that the modifications proposed by Towantic “may have significant detrimental effects on the operation of” Naugatuck’s wastewater treatment plant “and its ability to process and treat the unknown amount of effluent from the proposed dual-fuel combined cycle generating facility...” Naugatuck and its WPCA also claim that they will be significantly affected by the water effluent from

the Facility. These statements are inconsistent with the WPCA's actions. Specifically, the WPCA *unanimously approved* Towantic's water discharge request on August 21, 2014, subject only to the plant manager's review, as stated in its September 19, 2014 letter to Towantic. The WPCA's approval letter is included in Appendix A to Petition Exhibit 1 (the Tetra Tech Report) and is discussed in Section 4.1.2.2 of Exhibit 1. For the Council's convenience, the WPCA's approval letter is attached to this document.

4. Conclusion – None of the pleadings filed with the Council provide any reasonable basis for the Council to delay its determination during its November 13, 2014 meeting on whether to reopen Docket No. 192 and to begin the full public hearing process.

Respectfully submitted,


CPV TOWANTIC, LLC

By: 

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Its Attorneys

CERTIFICATE OF SERVICE

This is to certify that on this 12th day of November, 2014, the foregoing document was sent, via first class mail and/or by electronic mail, to the persons on the attached service list.

By: 
Philip M. Small

LIST OF PARTIES AND INTERVENORS
SERVICE LIST

Status Granted	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	CPV Towantic, L.L.C.	Franca L. DeRosa, Esq. Philip M. Small, Esq. Brown Rudnick LLP 185 Asylum Street Hartford, CT 06103 (860) 509-6500 (860) 509-6501 – fax fderosa@brownrudnick.com psmall@brownrudnick.com
Party	Jay Halpern 58 Jackson Cove Road Oxford, CT 06478 h: 203-888-4976 zoarmonster@sbcglobal.net Peter Thomas 72 Towantic Hill Rd. Oxford, CT 06478 203-720-1536	
Intervenor	Town of Middlebury	Attorney Dana A. D'Angelo Law Offices of Dana D'Angelo, LLC 20 Woodside Avenue Middlebury, CT 06762 (203) 598-3336 (203) 598-7283 – fax Dangelo.middlebury@snet.net
Intervenor	The Connecticut Light and Power Company (CL&P)	Stephen Gibelli, Esq. Associate General Counsel The Connecticut Light and Power Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-5513 (860) 665-5504 –fax gibels@nu.com John R. Morissette Manager-Transmission Siting and Permitting The Connecticut Light and Power Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-2036 morisjr@nu.com

Status Granted	Status Holder (name, address & phone number)	Representative (name, address & phone number)
	CL&P continued...	<p>Christopher R. Bernard Manager, Regulatory Policy (Transmission) The Connecticut Light and Power Company P.O. Box 270 Hartford, CT 06141-0270 (860) 665-5967 (860) 665-3314 – fax bernacr@nu.com</p> <p>Stella Pace, Senior Engineer The Connecticut Light and Power Company Transmission and Interconnection Dept. P.O. Box 270 Hartford, CT 06141-0270 (860) 665-3569 paccess@nu.com</p>
Party	Town of Oxford	Francis A. Teodosio, Esq. Winnick, Vine, Welch & Teodosio, LLC 481 Oxford Road Oxford, CT 06478 fteodosio@wvwtlaw.com (203) 881-3600 (203) 881-3606 fax
Party	Naugatuck Valley Chapter Trout Unlimited	Robert M. Perrella, Vice President TU Naugatuck/Pomperaug Valley Chapter 278 W. Purchase Road Southbury, CT 06488-1004 johnnytroutseed@chartner.net
Intervenor	Town of Southbury	Ed Edelson First Selectman Town of Southbury 501 Main Street Southbury, CT 06488 selectman@southbury-ct.gov (203) 262-0647 (203) 264-9762 – fax
Party	The Pomperaug River Watershed Coalition	Len DeJong, Executive Director Pomperaug River Watershed Coalition 39 Sherman Hill Road, C103 Woodbury, CT 06798 203-263-0076 LDeJong@pomperaug.org

Status Granted	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Intervenor (approved 06/07/06)	Raymond Pietrorazio 764 Charcoal Avenue Middlebury, CT 06762-1311 (203) 758-2413 (203) 758-9519 – fax ray@ctcombustion.com	
Intervenor (approved 10/10/06)	GE Energy Financial Services, Inc.	Jay F. Malcynsky The Law Offices of Jay F. Malcynsky, P.C. One Liberty Square New Britain, CT 06051 (860) 229-0301 (860) 225-4627 – fax Jmalcynsky@gaffneybennett.com