

PHILIP M. SMALL
direct dial: (860) 509-6575
fax: (860) 509-6675
psmall@brownrudnick.com

185 Asylum
Street
Hartford
Connecticut
06103
tel 860.509.6500
fax 860.509.6501

September 17, 2015

VIA ELECTRONIC MAIL AND HAND-DELIVERY

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

RE: Docket No. 192B—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 Submittal of Additional Federal Aviation Administration Document

Dear Chairman Stein:

On July 21, 2015, in response to Condition 1.s of the Connecticut Siting Council's ("Council") May 14, 2015 Decision and Order in Docket No. 192B, CPV Towantic, LLC ("CPV") filed the following documents:

1. Eleven (11) Federal Aviation Administration ("FAA") "Determinations of No Hazard to Air Navigation" issued on June 6, 2015.
2. An FAA "Notice of Valid Petition Received," dated July 8, 2015, and addressed to Raymond Pietrorazio.

As a follow-up, CPV is now submitting sixteen (16) copies of an FAA Letter dated September 15, 2015, denying Mr. Pietrorazio's petition for discretionary review of the FAA's Determinations of No Hazard to Air Navigation issued on June 6, 2015.

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

Very truly yours,

BROWN RUDNICK LLP



Philip M. Small
Counsel for CPV Towantic, LLC

PMS/jmb
Enclosures
cc: Service List

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CERTIFICATE OF SERVICE

This is to certify that on this 17th day of September, 2015, the foregoing documents were sent via electronic mail, and/or first class mail, to the persons on the attached service list.

By:  _____
Philip M. Small



SERVICE LIST OF PARTIES AND INTERVENORS

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 Road 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 Stephen L. Savarese, Esq. 103 South Main Street Newtown, CT 06470 203-270-0077 attystephensavarese@gmail.com



Intervenor	The Connecticut Light and Power Company (CL&P)	<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</p> <p>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</p> <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> <p>Jeffery D. Cochran Northeast Utilities Service Company 107 Selden Street Berlin, CT 06037 860-665-3548 cochrjd@nu.com</p>
Party	Town of Oxford	<p>Kevin W. Condon, Esq. Condon & Savitt PC P.O. Box 570 Ansonia, CT 06401 203-734-2511 condonsavitt@comcast.net</p>
Party	Naugatuck Valley Chapter Trout Unlimited	<p>Robert M. Perrella, Vice President TU Naugatuck/Pomperaug Valley Chapter 278 W. Purchase Road Southbury, CT 06488-1004 johnnytroutseed@charter.net</p>



Intervenor	Town of Southbury	Ed Edelson First Selectman Town of Southbury 501 Main Street Southbury, CT 06488 (203) 262-0647 (203) 264-9762 – fax selectman@southbury-ct.gov
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
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
Intervenor (Approved 11/13/14)	Borough of Naugatuck and Borough of Naugatuck Water Pollution Control Authority	Edward G. Fitzpatrick, Esq. Alicia K. Perillo, Esq. Fitzpatrick, Mariano, Santos, Sousa, PC 203 Church Street Naugatuck, CT 06770 203-729-4555 Fitz@fmsslaw.org Alicia@fmsslaw.org Ronald Merancy, Chairman Water Pollution Control Authority 229 Church Street Naugatuck, CT 06770 203-720-7000 Rjm62159@aol.com
Intervenor (Approved 1/8/15)	Wayne McCormack 593 Putting Green Lane Oxford, CT 06478 wayne@waynemccormack.com	



Intervenor (Approved 1/8/15)	Naugatuck River Revival Group, Inc.	Kevin R. Zak, President Naugatuck River Revival Group, Inc. 132 Radnor Avenue Naugatuck, CT 06770 203-530-7850 kznrrg@sbcglobal.net
Intervenor (Approved 1/8/15)	Westover Hills Subdivision Homeowners	Chester Cornacchia Westover Hills Subdivision Homeowners 53 Graham Ridge Road Naugatuck, CT 06770 203-206-9927 cc@necsonline.com
Intervenor (Approved 1/8/15)	Westover School	Kate J. Truini Alice Hallaran Westover School 1237 Whittemore Road Middlebury, CT 06762 203-758-2423 ktuini@westoverschool.org ahallaran@westoverschool.org
Intervenor (Approved 1/8/15)	Greenfields, LLC and Marian Larkin	Edward S. Hill, Esq. Cappalli & Hill, LLC 325 Highland Avenue Cheshire, CT 06410 203-272-2607 ehill@cappalihill.com
Intervenor (Approved 1/8/15)	Lake Quassapaug Association, LLC	Ingrid Manning, Vice President Lake Quassapaug Association, LLC P.O. Box 285 Middlebury, CT 06762 203-758-1692 Ingridmanning2@gmail.com
Intervenor (Approved 1/8/15)	Middlebury Land Trust, Inc.	W. Scott Peterson, M.D., President Middlebury Land Trust, Inc. 317 Tranquility Road Middlebury, CT 06762 203-574-2020 wsp@aya.yale.edu
Intervenor (Approved 1/15/15)	Quassy Amusement Park	George Frantzis Quassy Amusement Park P.O. Box 1107 Middlebury, CT 06762 203-758-2913 x108 George@quassy.com



Intervenor (Approved 1/15/15)	Middlebury Bridle Land Association	Nancy Vaughan Middlebury Bridle Land Association 64 Sandy Hill Road Middlebury, CT 06762 203-598-0697 ndzjavaughan@gmail.com
Intervenor (Approved 1/15/15)	Dennis Kocyla 28 Benz Street Ansonia, CT 06401 203-736-7182 Dennis3141@yahoo.com	
Intervenor (Approved 1/15/15)	Naugatuck Valley Audubon Society	Sophie Zyla Jeff Ruhloff Carl Almonte Naugatuck Valley Audubon Society 17 Stoddard Place Beacon Falls, CT 06403 203-888-7945 NVASeditor@mail.com
Intervenor (Approved 1/15/15)	Oxford Flying Club	Burton L. Stevens Oxford Flying Club P.O. Box 371 Woodbury, CT 06798 203-236-5158 bstevens@snet.net



U.S. Department
of Transportation

**Federal Aviation
Administration**

Airspace Policy and
Regulations Group

Airspace Services
800 Independence Avenue, SW.
Washington, DC 20591

Mr. Raymond Pietrorazio
1212 Whittemore Road
Middlebury, CT 06762

SEP 15 2015

Dear Mr. Pietrorazio:

Determination of No Hazard to Air Navigation
Obstruction Evaluation Case: 2015-AWA-8-OE
Aeronautical Study Numbers: 2014-ANE-1770, 1771, 1908-1912, & 1923-1926-OE
Structure Type/Location: Power Plant – Oxford, CT

We have completed our examination of your petition for discretionary review of the subject determinations issued by the Federal Aviation Administration's Obstruction Evaluation Group (OEG). The determinations are for several structures (two stacks, air cooled condenser, administrative buildings, switchyard tower, auxiliary boiler stack, gantry crane, and fuel oil storage tank) associated with a new power plant that would be located approximately 3,805 feet (ft.) - 4,353 ft. northeast of the Airport Reference Point for the Waterbury-Oxford Airport (OXC), Waterbury, CT. The heights of the proposed structures are between 882 ft. above mean sea level (AMSL) and 980 ft. AMSL. The building exceeded obstruction standards as contained in, Title 14 Code of Federal Regulations (14 CFR) part 77, but was not found to have a substantial adverse effect. On June 5, 2015, the FAA's OEG issued a Determination of No Hazard (DNH) to Air Navigation for each of the individual structures.

On July 6, 2015, we received your valid petition for discretionary review. However, you failed to provide any new facts or information that would change the basis on which the determinations were made, thus your request for discretionary review is denied. Notwithstanding the above, we offer the following regarding the information you discussed.

Your petition discusses the language within the Notice of Presumed Hazard to Air Navigation and states that "the FAA has not established a standard that can differentiate between an adverse effect and a substantial adverse effect." We would like to clarify that a structure that exceeds one or more of the standards contained in § 77.17 is only presumed to be a hazard to air navigation unless the aeronautical study determines otherwise. The procedures for determining whether the structure, if not amended, altered, or removed, has an adverse effect on the safety of air navigation, is contained in FAA Order 7400.2 Procedures for Handling Airspace Matters, in paragraph 6-3-3, Determining Adverse Effect. Additionally, the guidance for determining whether a proposed structure would have a substantial adverse effect is contained in paragraph 6-3-5, Substantial Adverse Effect.

You go on to discuss emission of thermal exhaust plumes from industrial plants as potential hazards to aviation. You allege that the obstruction evaluation should consider emissions from the proposed power plant as having an adverse impact to aircraft operating at

Waterbury-Oxford Airport (OXC). Specifically, you believe that the procedures established in Order 7400.2, Part. 2 Objects Affecting Navigable Airspace, were intended “to cover anything affecting the navigable airspace.” This is not correct. The procedures within the order were established to standardize the obstruction evaluation of structures subject to the aeronautical study requirements under part 77.

We emphasize that the obstruction standards set forth in part 77 do not apply to emissions. Section 77.13, Applicability, states in part, the standards used for determining obstruction to air navigation apply to “any object of natural growth, terrain, or permanent or temporary construction or alteration”. The FAA has consistently maintained that the applicability of part 77 does not include emissions.


You also state that “the FAA erroneously takes the position it is not responsible to identify these hazards, and in turn passes the responsibility on to local authorities.” As you point out, the FAA has studied the effects of thermal exhaust plumes on flight safety. This study was conducted separately from any aeronautical evaluation of existing or proposed structure conducted under part 77. The information gathered by the FAA, as part of this study, is important in understanding the effect that thermal exhaust plumes may have on flight operations. As a result of the study, the FAA has made the Exhaust Plume Model available to state and local authorities who are responsible for local land use issues. Please be advised that there are no FAA regulations protecting for plumes and other emissions from exhaust stacks.

Specifically, you ask whether the Connecticut Airport Authority “has the unabridged authority to change airport flight patterns, change pattern altitudes, and make other modifications to the landing and takeoff procedures without first receiving authorization/approval from the FAA?” The FAA does not approve or determine VFR traffic patterns except when established by a special flight rule under part 93. General information and recommended procedures for traffic patterns can be found in the FAA’s Aeronautical Information Manual (AIM), paragraph 4-3-3, Traffic Patterns. Local procedures regarding an airport traffic pattern are established by the airport manager/owner.

In conclusion, we find the OEG team followed all of the current procedures in making the subject determination. You failed to provide any new facts or information that would change the basis on which the determination was made. Accordingly, your request for discretionary review is denied, and the above referenced Determination of No Hazard to Air Navigation is final. The determination will expire on **MAR 15 2017**.

If you have any questions regarding this matter, please contact Jon Stowe, at (202) 267-8783.

Sincerely,



Jodi S. McCarthy

Director of Airspace Services

Air Traffic Organization