

**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

APPLICATION OF KLEEN ENERGY : DOCKET NO. 225 C  
SYSTEMS, LLC FOR A CERTIFICATE OF :  
ENVIRONMENTAL COMPATIBILITY AND :  
PUBLIC NEED FOR AN ELECTRIC :  
GENERATING FACILITY AND :  
SWITCHYARD IN MIDDLETOWN : September 2, 2010

**KLEEN ENERGY SYSTEMS, LLC'S PROPOSED FINDINGS OF FACT**

Kleen Energy Systems, LLC ("Kleen Energy") submits these proposed findings of fact in support of its request for extension of certificate dated June 22, 2010.

**BACKGROUND**

1. Kleen Energy received a Certificate of Environmental Compatibility and Public Need for the construction, operation and maintenance of a an electric generating facility and switchyard in Middletown, Connecticut by Decision and Order of the Siting Council dated November 21, 2002 (the "Certificate"). (See Findings of Fact and Decision and Order dated November 21, 2002).
2. The Certificate is set to expire on November 30, 2010. (See Kleen Request for Extension dated June 22, 2010).
3. Kleen Energy requested an extension of its Certificate through and including June 30, 2011 due to construction delays that resulted from the explosion that occurred on February 7, 2010 at the Kleen Energy facility and resulting investigation. (See Kleen Request for Extension dated June 22, 2010).

4. After submission of Kleen Energy's extension request, the Siting Council, on its own motion, moved to re-open this proceeding pursuant to Conn. Gen. Stat. § 4-181a(b) based on changed conditions for the limited purpose of consideration of the attachment of conditions to Kleen Energy's Certificate extension in accordance with the findings of the Kleen Energy Investigation Review Panel Final Report (the "Nevas Commission Report"). (See 8/3/10 Transcript ("TR") at 5-6).

5. The re-opening of this docket is specifically limited to the consideration of changed conditions and of the attachment of condition to the Certificate consistent with the findings and recommendations contained in the Nevas Commission Report, released on June 3, 2010. (TR at 5-6).

6. The Council held a duly noticed public hearing on August 3, 2010, beginning at 1:00 p.m. at Hearing Room One, Ten Franklin Square, New Britain, Connecticut. (Hearing Notice and Revised Hearing Notice).

#### **NEVAS COMMISSION REPORT**

7. The Nevas Commission was charged with determining the origin and cause of the February 7, 2010 explosion at the Kleen Energy construction site in Middletown, Connecticut. (See Record, Administrative Notice Item #29 at 1).

8. The Nevas Commission Report makes eight recommendations related to proposed changes to existing regulatory structure. (See Record, Administrative Notice Item #29 at 1, 5-7).

9. The Nevas Commission Report recommendations include:

1. Determine whether any other state or federal agency has developed a regulatory structure applicable to natural gas pipeline cleaning ("gas blows").
2. Consult with industry experts to determine which methods of gas blowing are used and/or recommended, and identify the advantages and disadvantages of each method.
3. Identify the agency, or agencies, best suited to regulate the gas blow process.
4. Recommend the level of training and expertise necessary for that agency to effectively establish and enforce necessary cleaning regulations.
5. Consider recommending that the Connecticut Siting Council impose safety conditions upon any entity constructing a power plant that will employ the gas blow cleaning process.
6. Consider recommending that the Connecticut Department of Consumer Protection and/or the Connecticut Department of Labor identify, if appropriate, special licensing, credentials and/or training for those assigned to effect power plant gas blows in Connecticut. Further, consider recommending that the latter agencies address whether work schedule limitations are appropriate for those assigned to perform power plant gas blows in Connecticut.
7. Consider recommending the establishment of regulations in seven areas, as listed in the Record, Administrative Notice #29.
8. Recommend an agency or entity be responsible for serving as a "clearinghouse" to coordinate the efforts of every regulatory agency with responsibilities associated with the construction of a power plant. The agency or entity recommended would serve to track and record the work of all other regulatory agencies. The Department of Emergency Management and Homeland Security has expressed a willingness to identify models of the latter form of operating structure.

(See Record, Administrative Notice Item #29 at 5-7).

10. The Nevas Commission Report found that the Kleen Energy plant was heavily regulated and supervised by a variety of agencies, including federal OSHA, the local building inspector, the local fire marshal (both of whom were

supported by the Office of the State Fire Marshal and the Office of the State Building Inspector), the Department of Public Utility Control, the Department of Environmental Protection, the Connecticut Department of Labor, the Connecticut Department of Consumer Protection, and the Connecticut Siting Council. (See Record, Administrative Notice Item #29 at 4).

11. The Nevas Commission Report contains reports from the Department of Environmental Protection, Department of Public Utility Control, Department of Emergency Management and Homeland Security, Department of Consumer Protection, Connecticut Department of Labor and Connecticut Department of Public Safety (the "Department Reports"). (See Record, Administrative Notice Item #29 at 9, Exhibits 1-6).

#### **KLEEN'S COMPLIANCE WITH THE NEVAS COMMISSION REPORT**

12. Kleen is required to clean the gas piping at the Facility in order to obtain warranties for various equipment from the manufacturers. (See Pre-filed Testimony of William Corvo, Richard Audette; see *also* TR at 28).

13. Kleen has agreed that it will not utilize natural gas a cleaning medium to clean the remainder of the gas piping at the Facility. (See TR at 38-39).

14. Eighty percent (80%) of the gas piping at the Facility has already been cleaned. (See TR at 28).

15. Kleen has agreed that, for the remainder of the 600-800 linear feet of gas piping that still needs to be cleaned, it will not utilize natural gas as a cleaning medium. (See Pre-filed Testimony of William Corvo; TR at 38-39).

16. Instead of utilizing natural gas as a cleaning agent for the piping, Kleen is investigating using either nitrogen or air. (See Pre-Filed Testimony of Richard Audette; TR at 36).

17. Neither nitrogen nor air have the volatility of natural gas. Both nitrogen and air have been used to clean gas piping systems safely throughout the country. (See TR at 36).

18. The U.S. Chemical Safety Board has recommended the use of either nitrogen or air as safe alternatives to using natural gas for gas pipe cleaning. (See Record, Administrative Notice Item #30).

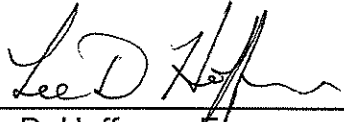
#### **EXTENSION REQUEST**

19. With the certificate extension, it is anticipated that Kleen will be able to complete construction of the Facility in accordance with its approved Certificate and development and management plan by April 8, 2011. (See Pre-Filed Testimony of Richard Audette).

20. Assuming the certificate extension is granted, Kleen will be able to participate in the ISO-New England forward capacity market auction in the summer of 2011. Kleen is required to participate in this auction through the contract awarded to it by the Department of Public Utility Control. (TR at 88-90).

21. Assuming the certificate extension is granted, the Kleen facility will provide a net benefit to Connecticut rate payers of \$500,000,000 over the life of Kleen's contract with the Department of Public Utility Control. (TR at 89-91).

Respectfully Submitted,  
KLEEN ENERGY SYSTEMS, LLC

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**CERTIFICATE OF SERVICE**

I hereby certify that on this day a copy of the foregoing was delivered by electronic mail and/or U.S. Mail, first class postage prepaid, to all parties and intervenors of record as follows:

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