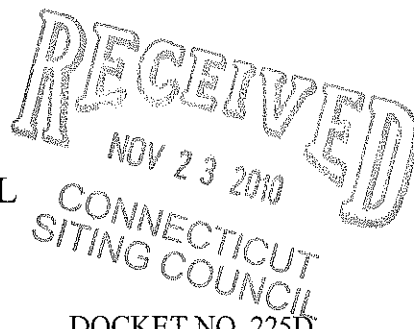


STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL



APPLICATION OF KLEEN ENERGY SYSTEMS, LLC : DOCKET NO. 225D
FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY :
AND PUBLIC NEED FOR AN ELECTRIC GENERATING :
FACILITY AND SWITCHYARD IN MIDDLETOWN : NOVEMBER 23, 2010

Pre-Hearing Submission by Town of Portland

In accordance with the Hearing Notice issued by The Connecticut Siting Council dated October 28, 2010 and the Pre-Hearing Memo dated November 18, 2010, the Town of Portland herewith submits its list of Pre-filed Testimony, Exhibit List and Expected Witness List.

Pre-Filed Testimony

The Town of Portland submits the following items of pre-filed testimony:

Letter from Portland First Selectwoman Susan S. Bransfield dated November 22, 2010.

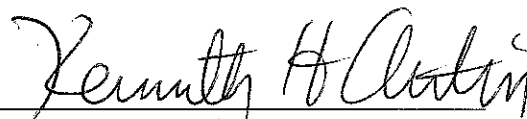
Exhibit List

All letters and documents referenced in the Pre-Filed Testimony List above.

Expected Witness List

Portland First Selectwoman Susan S. Bransfield.

Respectfully Submitted,
TOWN OF PORTLAND

By 

Kenneth H. Antin
D'Aquila Law Offices, LLC
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Middletown, CT 06457
Juris No. 425541
Tel. (860) 704-0290
Fax (860) 704-0545
Its Attorneys

STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL

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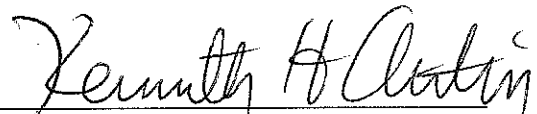
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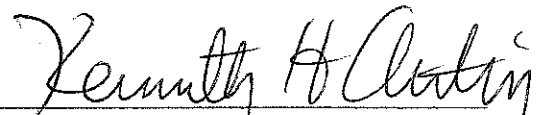
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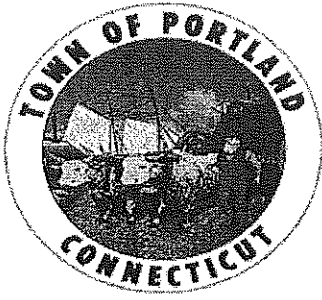
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November 22, 2010

The Honorable Daniel F. Caruso
Chairman, Connecticut Siting Council
Members, Connecticut Siting Council
10 Franklin Square
New Britain, CT 06051

Re: DOCKET NO. 225D – Kleen Energy Systems, LLC Certificate of Environmental Compatibility and Public Need for the construction, maintenance and operation of an Electric Generating Facility and Switchyard on River Road, Middletown, Connecticut. Reopening of this docket pursuant to Connecticut General Statutes §4-181a(b) limited to Council consideration of changed conditions and of the attachment of conditions to the certificate consistent with the findings and recommendations in the Executive Report issued by the Thomas Commission.

Dear Chairman Caruso and Members of the CT Siting Council:

The Hearing being held on December 7, 2010 will consider changed conditions and the attachment of conditions to the certificate that would be consistent with the findings of the Governor's Commission re: Kleen Energy Explosion a/k/a the Thomas Panel (the Thomas Commission).

In the testimony I presented at the August 3, 2010 hearing on the changes recommended by the Nevas Commission, I stated that "...all prudent safety measures must be in place to help prevent anyone from suffering such a terrible loss again." On behalf of not only the residents of Portland but also those residents of Middletown who live near the Kleen Energy facility, I again implore the Council to give paramount importance to public safety. Every feasible step must be taken to prevent recurrence of the February 7, 2010 explosion.

It should be recalled that the Nevas Commission's task was to determine the cause of the February 7, 2010 explosion, not to recommend changes in laws or regulations. The Nevas Commission Chairman, Alan Nevas, strongly urged that the Council attach to the extension of Kleen Energy's certificate the specific recommendations of the Thomas Commission. (Nevas Commission Final Report, page 8.)

Each one of the Thomas Commission's seven specific recommendations should be attached as applicable to Kleen Energy's Certificate:

(1) The first recommendation, that flammable gas blows be banned in Connecticut, Kleen Energy has already accepted. It could hardly do less given the Governor's Executive Order Number 45 banning the use of natural gas in gas pipeline purges.

(2) The Town of Portland considers the second recommendation – that the applicant pay the cost of special inspectors – perhaps the single most important of the seven recommendations. Kleen Energy by its own admission must still purge 800 linear feet of pipeline before it opens its facility.

While Kleen Energy is committed to an alternative but as yet unspecified method of pipeline purging, the Thomas Commission concluded that alternative purging methods such as nitrogen or compressed air carry their own safety risks. Even such non-flammable gas blows, it concluded, should be carried out based upon "...a safety plan developed by the permit holder and approved and carried out under the supervision of the local fire marshal, local building inspector and the special inspector." (Thomas Commission Executive Report, page 5.)

Not only should the special inspector be someone with the high qualifications the Thomas Commission specifies, but he or she should also be approved by the local fire marshal and building inspector.

Whatever the expense of hiring the special inspector, it will be money well spent if it averts further disaster.

(3) The third recommendation of a Clearing House for future applications is commendable. Although this recommendation on its face applies to future facility applications, the Council has taken the initiative of soliciting comments on Kleen Energy's application from the agencies mentioned in Recommendation 3. The Town agrees with this approach and urges the Council to adopt the safety recommendations of the agencies whose opinions it has solicited.

(4 - 6) The Thomas Commission's Recommendations 4 through 6 state that the Department of Public Safety should adopt various updates to the Connecticut Fire Safety Code, the Connecticut State Building Code, and the Connecticut Fire Prevention Code. These three recommendations have the effect of making these code updates apply to renewals or extensions of existing permits.

Kleen Energy has raised concerns about applying new code updates to a facility 92% constructed in accordance with the codes then in effect. (Response dated November 15, 2010 to Council's First Set of Interrogatories, answer to Q3.) A close reading of Kleen Energy's response reveals, however, that it takes issue only with updates to NFPA 37, NFPA 54, and NFPA 850. Even for those updates it has retained an engineering consultant, Thielsch Engineering, to review the updates and determine their effect on the facility as currently designed. This impact analysis should be available by the middle of December 2010, and Kleen Energy has promised to provide it to the Council. (Response to Interrogatories, answer to Q4.)

The Town understands Kleen Energy's concern that its facility not be **rebuilt** to comply with newly promulgated code changes. However, the Town sees no reason why the remaining 8% of the facility cannot be constructed according to the new standards. Neither does the Town see any reason why the new standards should not apply to the

facility as currently constructed if the following two conditions apply: (1) the changes enhance the safety of the facility, and (2) the facility can be modified without undue economic waste to meet the new standards.

The Town also urges the Council to resort to its statutory authority and hire its own consultant to consider whether and how the code changes as recommended by the Thomas Commission may be applied to the Kleen Energy facility. CGS Sec.16-50v (f).

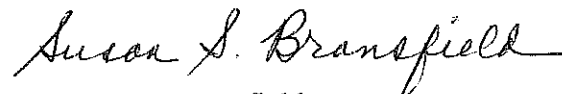
(7) Recommendation 7 would require power plant applicants to the Council to pay for the extra training local fire and building officials will need to deal with the extra complexities such applications present.

The need to avert any future disasters supports amending Kleen Energy's certificate to achieve Recommendation 7 just as it supports attaching Recommendation 2. Requiring Kleen Energy to fund additional training for Middletown's fire marshal and building inspector lies within the Council's power to set appropriate conditions upon the certificates it grants. CGS Sec. 16-50p.

In summary, please allow me to repeat: Public Safety is paramount to everything else. I implore you to take the necessary time to ensure the safety of the public. Apply the Thomas Commission's recommendations as fully as possible to the remaining construction of Kleen Energy's facility. It is your responsibility and your charge as public officials of the CT Siting Council. Public Safety is the most important task you have. You recognized as much when you promised to reopen the Kleen Energy docket to "...adopt any pertinent recommendations made by the Thomas Commission to prevent the recurrence of such a tragic event." (Opinion in Docket No. 225C, October 7, 2010.)

Thank you for your consideration.

Sincerely yours,

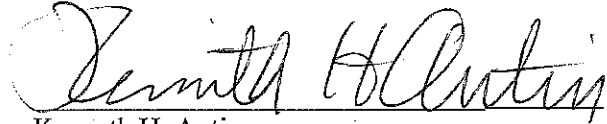


Susan S. Bransfield
First Selectwoman



CERTIFICATION OF SERVICE

I hereby certify that on November 23, 2010, a copy of the foregoing was delivered by U.S. Mail, first class postage prepaid, to all of the parties and intervenors appearing on the attached Service List dated July 30, 2010.

A handwritten signature in black ink, appearing to read "Kenneth H. Antin". The signature is written in a cursive style with a horizontal line underneath it.

Kenneth H. Antin
Commissioner of the Superior Court

