

February 17, 2010

S. Derek Phelps  
Executive Director  
Connecticut Siting Council  
10 Franklin Square  
New Britain, CT 06051

**Re: DOCKET NO. 370** – Consolidated proceeding pursuant to the Connecticut Energy Advisory Board (CEAB) Request for Proposal (RFP) process under C.G.S. §16a-7c. **Original application:** The Connecticut Light & Power Company application for Certificates of Environmental Compatibility and Public Need for the Connecticut Valley Electric Transmission Reliability Projects which consist of (1) The Connecticut portion of the Greater Springfield Reliability Project that traverses the municipalities of Bloomfield, East Granby, and Suffield, or potentially including an alternate portion that traverses the municipalities of Suffield and Enfield, terminating at the North Bloomfield Substation; and (2) the Manchester Substation to Meekville Junction Circuit Separation Project in Manchester, Connecticut. **Competing application:** NRG Energy, Inc. application pursuant to C.G.S. §16-50l(a)(3) for consideration of a 530 MW combined cycle generating plant in Meriden, Connecticut.

Dear Mr. Phelps:

On February 10, 2010, the Connecticut Siting Council (“Council”) issued its draft findings of fact (“FOF”) and offered parties and intervenors in the above-referenced proceeding the opportunity to identify errors or inconsistencies between the Council’s draft FOF and the evidentiary record in this case. The Council further stated that no new information, evidence, argument or reply briefs will be considered at this time.

Richard Blumenthal, Attorney General for the State of Connecticut (“Attorney General”), hereby submits his limited comments on the Council’s draft FOF. Draft FOF 28 states that:

[c]onsistent with RTEP findings, ISO-NE can require a transmission owner to build transmission infrastructure. Conversely, if a transmission owner were to make a transmission improvement without approval by ISO-NE, such an action may not meet regional cost allocation requirements: therefore, the cost would not be regionalized (distributed among New England ratepayers). Also, if ISO-NE were to find the improvement would not work with the system, it could order the transmission owner not to energize the equipment. (CL&P 1, Vol. 1 p. F-3; ISO-NE 1, p. 7; Tr. 14, pp. 151, 152).

(Emphasis added).

The first sentence of this FOF is not accurate and is not consistent with the record in this case. On October 28, 2009, representatives of ISO-NE testified that ISO-NE does not have authority to direct a state to grant the various approvals necessary to construct a transmission line. Specifically:

MS. KLEEFELD: I believe you did too. But, doesn't Schedule 3.09A of the transmission operating agreement also can issue – condition the transmission operator's obligation to build on receiving state governmental approvals, like in this case approval of the Siting Council?

MR. KOWALSKI: Yes.

MS. KLEEFELD: So if the Council were to decline the Greater Springfield Reliability Project, would the ISO work with CL&P to design an alternative solution to the reliability problems that you've identified?

Mr. KOWALSKI: Yes, we would. . . .

Transcript, October 28, 2009, 48. Moreover:

MR. WERTHEIMER: Okay. Now as – I believe you just discussed with NRG's counsel [that] an identification by ISO New England that a particular project is needed, does not bind the Siting Council, correct?

MR. MEZZANOTTE: That's Correct.

A VOICE: That's correct.

Thus, while ISO-NE may have the authority to direct a transmission owning utility to seek the various state and other governmental permits and approvals necessary to construct a transmission project, ISO-NE cannot direct a state to grant those approvals. The Attorney General urges the Council to amend draft FOF 28 to make clear that ISO-NE cannot require a transmission owner to build

transmission infrastructure. Rather, transmission owners must seek and receive all necessary governmental permits and approvals before it can build transmission infrastructure.

Sincerely,

RICHARD BLUMENTHAL  
ATTORNEY GENERAL

By: \_\_\_\_\_

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cc: Service list