

RECEIVED  
JAN 11 2010

CONNECTICUT SITING COUNCIL

CONNECTICUT  
SITING COUNCIL

In Re the Application of The Connecticut Light and Power Company for a Certificate of Environmental Compatibility and Public Need for The Greater Springfield Reliability Project and the Application of NRG Energy Inc.

Docket Nos. 370 and 370B

January 11, 2010

BRIEF FILED ON BEHALF OF THE TOWN OF EAST GRANBY

**The Law:**

It is beyond the possibility of argument that the legislation by which the Connecticut Siting Council ("CSC") is empowered to act requires it to be profoundly sensitive to the environmental and ecological impacts of a proposal such as that of The Connecticut Light and Power Company ("CL&P"). Early in the Chapter governing these proceedings, there is a finding and declaration by the General Assembly that the conservation of undeveloped lands and the preservation of open spaces is the settled policy of the State of Connecticut and bears a substantial relationship to the public health and safety and common welfare of its citizens. Conn. Gen. Stat. § 16-50b. Conn. Gen. Stat. § 16-50g sets forth a further legislative finding that transmission lines for electricity have already had a significant and, *a fortiori*, adverse impact on the State's environment and ecology and sets forth a mandate that, in the future development of such facilities, steps to minimize damage to scenic, historic and recreational values and to avoid the unnecessary proliferation of towers be taken into account.

The very process requires that, before CL&P's application is approved, its proposal must not only be found to meet a public need but that it also be found to be

environmentally compatible. Conn. Gen. Stat. § 16-50k. In reaching that critical finding, the CSC is mandated to consider the probable environmental impact of the facility proposed both standing alone and cumulatively, including consideration of **every** significant adverse impact on the natural environment, ecological balance, public health and safety, scenic, historic and recreational values among other concerns. Conn. Gen. Stat. § 16-50p(a)(3)(B). Indeed, a presumption is created by this statute that the undergrounding of transmission lines with a capacity of 345 kv or greater in all residential areas is in the public interest and that installing such lines overhead in residential areas is inconsistent with the law. Conn. Gen. Stat. §§ 16-50p (c)(4) and 16-50p(i).

Finally the CSC is mandated by the statutes to establish regulations that aim at the total elimination of overhead electric transmission lines over time, regulations that it does not appear the CSC has in fact adopted. Conn. Gen. Stat. § 16-50t(a).

Evidence that undergrounding adds cost to installation and complicates maintenance and repairs was presented in the course of these proceedings. It is respectfully suggested that, even in the absence of such evidence, it seems clear that that would be the case. Notwithstanding that undergrounding invariably increases both installation and maintenance costs, the General Assembly has established a clear preference for undergrounding in residential areas and the eventual elimination of overhead transmission entirely. The CSC is bound to follow that mandate.

**The Facts:**

An existing 115 kv transmission line traverses the Town of East Granby (and the Town Suffield, whose interests are necessarily essentially the same) from south to north

close to and essentially paralleling the Metacomet Trail, a portion of the a recently declared national heritage trail, along its entire course through the Town. While occupying an existing right of way with a width of 300 feet or more, the actual cleared area through which these towers are constructed is less than one-half the width of the right of way. The installation of the proposed towers will expand the cleared area significantly. It will result in the loss of over 30 acres of established woodland which provides habitat for a number of animal species of special concern. The existing towers already disrupt the panoramic views from a number of locations along the Metacomet Trail. The additional towers, both because of their height and because of the clearing required in the existing right of way for their installation, will have a significantly adverse impact on these major scenic values.

North of State Route 20 (Turkey Hills Road), the existing line of towers passes through the Newgate Wildlife Area very close to the Old New-Gate Prison, one of the State's prime historic and cultural treasures, dating back to the colonial era. Widening the cleared area of the right of way and the installation of a wholly new, second, line of towers is incompatible with the environmental, historic and cultural values these facilities offer. Immediately north of Old New-Gate Prison, the existing and the proposed towers pass through a typical suburban residential area extending northward through the rest of East Granby into the Town of Suffield. Some homeowners in this area find themselves driving under the existing towers to their garages; many find them occupying their immediate back yards. The existing towers already cannot avoid affecting the value of these homes or arousing the health and safety concerns of their owners and occupants, many of whom are children at some demonstrable risk to EMF

exposure. The towers which CL&P proposes to add cannot but geometrically multiply these concerns.

CL&P acknowledges that undergrounding is a technically feasible alternative. (It also acknowledges that adding the existing 115 kv lines to the proposed 345 kv towers is also feasible and that having a single row of towers lessens the need to clear so much of the right of way of the woodland now there.) There is no question that undergrounding will result in greater cost for both installation and long term maintenance. The legislature could not help but be fully aware of that fact when it established the presumptions and expectations set out in the statutes referred to above.

**Argument:**

It is self-evident that installing a second row of transmission towers through the entire Town of East Granby, given especially the environmental, scenic, historic and residential values and concerns demonstrated by the evidence in this case, can have absolutely no positive effect but only a significantly deleterious one. It is clear that the citizens of East Granby (and of the State who hike the Metacomet Trail, who visit Old New-Gate Prison and its related facility, the Viets Tavern, or who avail themselves of recreational opportunities in the Newgate Wildlife Area) will bear a disproportionate burden on facilities CL&P proposes essentially to solve a problem existing in the Greater Springfield area.

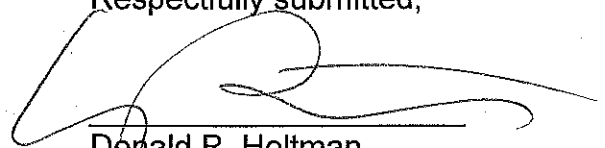
The Town of East Granby does not have the technical expertise to comment on the sufficiency of the NRG Energy proposal to meet whatever Connecticut's need in the matter might be. Clearly, if NRG can replace CL&P's proposal, making the latter

unnecessary, the Town of East Granby will be meaningfully benefited, since the NRG proposal would not appear to have any impact whatsoever on the Town.

If the CSC determines that the CL&P proposal does in fact meet a public need which the NRG proposal does not, it is respectfully suggested that the goal of the statute requiring policies aimed at eventual elimination of all overhead lines might now be invoked to require that all construction in East Granby be underground. At the very least, the presumption that undergrounding in residential areas is in the public interest and that failure to do so in such areas is incompatible with the purposes of the law under which the CSC is obliged to function would seem to dictate that such undergrounding take place north of Turkey Hills Road.

Barring such a requirement for undergrounding, it is most respectfully submitted that, given its technological feasibility, CL&P ought at the very least be required to minimize the clearing of its right of way and lessen the visual impact of two rows of towers side by side, a proliferation of towers clearly undesirable in the statutory scheme, by installing both the 345 kv and the 115 kv lines on a single row of towers, a result which would not be satisfactory to the Town of East Granby but of which it could be said that it is less unsatisfactory.


Respectfully submitted,



Donald R. Holtman  
Town Attorney, Town of  
East Granby

**CERTIFICATION OF SERVICE**

I hereby certify that on January 11, 2010, I served a copy of the foregoing on each party and intervenor as set out in the Service List dated November 13, 2009, either electronically or by mail as the preference of the entity serviced is shown thereon.



Donald R. Holtman