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Anthony M. Fitzgerald

April 14, 2009

S. Derek Phelps
Executive Director
State of Connecticut
Connecticut Siting Council
10 Franklin Square
New Britain CT 06501

Re: Docket No. 370B: NRG Energy, Inc. Application Pursuant to
C. G.S. § 16-50(a)(3) for Consideration for a 530 MW Combined
Cycle Generation Plant in Meriden, CT.

Docket No. 370A: CL&P Application for the Greater Springfield
Reliability Project and the Manchester to Meekville Jct. Circuit
Separation Project

Dear Mr. Phelps,

I write on behalf of the Applicant in Docket 370A to respond to the letter of Andrew W. Lord dated April 7, 2009. As we all find our way in the uncharted territory created by the RFP Process, the exchange of views in CL&P's Comment of April 3, 2009 and Mr. Lord's letter of April 7, 2009 has proven useful in defining issues with which the Council must grapple. In particular, I was pleased to learn that CL&P and NRG agree that the reliability problems in Massachusetts are part of the need that must be considered by the Council in evaluating the CL&P and NRG projects (Lord Letter at 2). As noted in CL&P's Comment, the NRG Application makes no claim to address these problems. (Id., p. 5) I was also pleased to see that we agree that, should the Council determine that the NRG Application is "complete," that finding will not foreclose an attack on the Application as fatally deficient because it does not address the need to which CL&P's projects are directed. (Id., at 2.)

We also agree that, in order to obtain a Certificate of Environmental Compatibility and Public Need for the GSRP and the MMP, CL&P must establish that the need it claims for the Projects exists. That is a burden that CL&P would bear whether or not any competing application were filed.

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However, it appears that there is an important disagreement concerning the showing that NRG must make in order to require the Council to consider its Application as a competitor to CL&P's Application. Simply put, in order for NRG to qualify its project for consideration as a substitute for CL&P's projects, NRG must at least claim that its project will meet the same need that CL&P claims its projects will meet. The relevant statute requires that RFP projects must propose "alternative solutions to the need that will be addressed by the proposed facility in [the Siting Council] application." (C.G.S. § 16a-7c (b)). NRG quotes this language in its Application (NRG Application, at 1,2). However, Mr. Lord suggests in his April 7 letter that that until the Council makes a determination that CL&P has established a "need," (which is usually not until the conclusion of the proceeding) NRG's Project is in the running. That is not the case.

The wasteful and inefficient consequences of accepting Mr. Lord's position may be illustrated by considering the example of one of the other RFP projects. Ice Energy, proposed a peak-demand project with an initial claimed capacity of 100 MW. Its RFP Response frankly acknowledged that its project was not a substitute for the CL&P projects. Instead, it submitted: "...Ice Energy supports both the need and justification for the GSRP and MMP transmission projects...In addition, Ice Energy would respectfully submit a complementary proposal to these projects." (Ice Energy Response to CEAB RFP, Jan. 2, 2009, p.1)

If Ice Energy had continued beyond the RFP stage to submit an application to the Siting Council to have its project considered in this proceeding as a "complementary" project to GSRP and MMP, it would have been clear that its application did not qualify for consideration by the Council. An Ice Energy application would have had to be rejected, not because CL&P had proven that its projects were entitled to approval, but because the Ice Energy project was not offered as a true alternative to CL&P's projects.

The difference between the Ice Energy Project and the NRG proposal is that NRG has been coy about admitting that its project can not meet the need defined in CL&P's Application, but at best would be complementary to it. At pages 3-6 of its April 3 Comment, CL&P shows explicitly how the need addressed by its projects has been defined in its Application, and that the benefits claimed for NRG's project do not include addressing that need. In a word, under today's conditions, multiple electric transmission facilities in Massachusetts, in Connecticut, and between Massachusetts and Connecticut, are subject to overloads and voltage violations, contrary to mandatory national and

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regional reliability standards. CL&P asserts that the GSRP and MMP projects will fix those problems. NRG does not make that claim for its project.

What NRG does claim is that its generating plant would add a Connecticut capacity resource. Then NRG completely turns CL&P's need claim on its head by characterizing it too, as simply a capacity claim. NRG quotes CL&P's statement in its Application that "**in some cases**, electric reliability needs can be met by means other than improvements to the transmission system [such as] where the reliability problem is simply a lack of sufficient generation resources to reliably serve the load in a defined area..." (NRG App. at 9, quoting CL&P App. Vol. 1, ES-14; emphasis added). NRG then cuts the quote off before getting to the part where CL&P says that **in this** case, power-flow studies establish that "the only practical means of resolving the many reliability criteria violations on the Greater Springfield and north-central Connecticut transmission systems is through improvements to those transmission systems." (CL&P App., p. ES-11)

The competitive application process is like a cage fight. Two or more competitors go into it, but no more than one may come out. Sometimes none will come out. Only "the most appropriate alternative among such applications" may be approved, §16-50p(a)(3)(F) If a project will not meet the an electric system reliability need for which the original project is proposed, it can not be considered "appropriate." Since NRG does not claim that its project will fix the reliability problems that exist today on the Massachusetts and Connecticut transmission lines and substations, NRG should not be allowed into the cage. It matters not if NRG's project would provide additional capacity, or just displace existing capacity; and it matters not if NRG's project would be a financial boon or a financial albatross to Connecticut consumers, if it would not resolve pressing reliability problems on the Connecticut and Massachusetts systems that GSRP and MMP address.

Of course, putting NRG on the sidelines will not entitle CL&P to a Certificate for its projects. CL&P will still have to establish, as it would in any case, that the claimed need exists, and that its projects meet all of the qualifications required for a Certificate.

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I look forward to further discussion of this issue once NRG has responded to the data requests that CL&P has addressed to it.

Very truly yours,



Anthony M. Fitzgerald

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