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April 15, 2009

VIA HAND DELIVERY

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

Re: Docket No. 370B: NRG Energy, Inc. Application Pursuant to  
C.G.S. § 16-50/(a)(3) for Consideration of a 530 MW Combined  
Cycle Generating Plant in Meriden, Connecticut – Request for  
Procedural Clarification

Dear Mr. Phelps:

NRG Energy, Inc. (“NRG”) has reviewed the April 14, 2009 letter of Anthony Fitzgerald, counsel for The Connecticut Light and Power Company (“CL&P”), which was filed with the Connecticut Siting Council (“CSC” or “Council”) to highlight the disagreement between NRG and CL&P regarding the public need that NRG’s Meriden Plant must be capable of satisfying in order to qualify as an alternative to the Greater Springfield Reliability Project (“GSRP”) or the Manchester to Meekville Junction Circuit Separation Project (“MMP”). NRG concurs with Attorney Fitzgerald that CL&P’s and NRG’s differing views regarding the public need issue are fundamental to this consolidated proceeding and believes that it would be in the best interests of Connecticut ratepayers, the Council and the parties hereto to address these divergent opinions at the earliest possible date.

In this Request for Procedural Clarification, NRG seeks guidance from the Council as to whether Connecticut General Statutes (“C.G.S.”) §§ 16a-7c(a) and 16-50p(a)(3)(F), as interpreted by the Council and the Connecticut Energy Advisory Board (“CEAB”), require NRG to demonstrate that its Meriden Plant can resolve the local reliability problems in the Springfield, Massachusetts area purportedly addressed by the GSRP, or whether it is sufficient that the Meriden Plant be capable of providing in-state capacity as a substitute for the import capability to be added by the GSRP.

### Procedural Background

On October 28, 2008, CL&P filed an Application for a Certificate of Environmental Compatibility and Public Need ("Certificate") seeking approval to construct the GSRP and the MMP ("CL&P Application"). The Executive Summary of the CL&P Application (p. ES-2) summarizes the need for these two projects as follows:

The Greater Springfield additions will, on their own, improve the reliability of the electric transmission systems of western Massachusetts and north-central Connecticut by eliminating extensive violations of reliability criteria, eliminating transfer constraints on the existing transmission system over which power is imported into Connecticut from western Massachusetts, and by completing a 345-kV loop that will supply the North Bloomfield Substation from two directions. These improvements will both increase the security of electric supply to Connecticut customers, and provide them with better access to lower cost, low-emission and renewable remote power resources.

On November 4, 2008, the CEAB issued a Request for Proposals ("RFP") for alternative solutions as required by C.G.S. § 16a-7c(a). The RFP stated that the CEAB is "seeking energy alternatives that could address *part or all* of the claimed needs identified in the CL&P filing," including proposals that would "add local supply sources or reduce loads within the targeted geographical area of the CL&P or the Western Massachusetts Electric Company . . . service territories . . . ." RFP, pp. 2-3 (emphasis added).

NRG responded to the CEAB's RFP on December 31, 2008 by proposing its Meriden Plant as an alternative to the GSRP/MMP. NRG's proposal did not claim that the Meriden Plant would resolve the local reliability issues in the Greater Springfield area that are cited in the CL&P Application. Rather, NRG advanced its Meriden Plant on the basis that it is a local supply alternative to the increased import capability that would result from the GSRP and NEEWS. GE Financial Services ("GE") and Ice Energy, Inc. ("Ice") also submitted responsive proposals.

On February 17, 2009, the CEAB issued its Evaluation Report on the GSRP/MMP projects and the three, non-transmission projects proposed as alternatives (the "CEAB Report"). With regard to the reliability need, the CEAB Report observed that "[i]t is clear from the CL&P application and our review of the power flow studies that the reliability issues or concerns in the Greater Springfield area are, in large measure, the result of north to south power flows across the Springfield area 115 kV system to serve loads in Connecticut." CEAB Report, p. 2. The CEAB Report went on to conclude that generation additions in southwest Connecticut, like the NRG and GE projects, can mitigate the north to south power flows in the Needs Assessment

referenced in the CL&P Application, while the Ice project would reduce peak electric loads. Id. at 3. It also found that all three projects could provide net economic benefits to Connecticut ratepayers. Id. The CEAB therefore recommended that the Council further evaluate these projects, but cautioned that “more detailed work will need to be done to assess the ability of the three RFP proposals to mitigate the reliability problems and to assess the cost effectiveness of the proposals.” Id. Finally, the CEAB noted that ISO New England Inc. (“ISO-NE”) plans to revisit the need for the NEEWS projects in its regional system planning studies. Id. at 2.

Following the issuance of the CEAB Report, the Council informed NRG, GE and Ice that they would be required to file Certificate applications for their respective projects even though NRG and GE previously had obtained a Certificate for each of their proposed plants. On March 19, 2009, NRG filed its Application Pursuant to C.G.S. § 16-50/(a)(3) (the “NRG Application”), which continued to propose the Meriden Plant as an alternative to the increased import capability to be provided by the GSRP and NEEWS. NRG Application, pp. 7-12. GE and Ice notified the Council that they would not participate in the Docket No. 370 proceedings.

#### The Divergent Views Regarding Need

The statute authorizing a reactive RFP, C.G.S. § 16a-7c(a), states in pertinent part as follows:

[N]ot later than fifteen days after the filing of an application pursuant to subdivision (1) of subsection (a) of section 16-50i . . . the [CEAB] shall issue a request for proposal to seek alternative solutions to the need that will be addressed by the proposed facility in such application.

As Attorney Fitzgerald properly notes, we are in “unchartered territory” in this proceeding (Fitzgerald Letter, p. 1) because this is the first time that a viable proposal has been submitted in response to a reactive RFP. The CEAB interpreted the above statute to mean that projects that can meet part of the need in the triggering application are eligible for consideration by the CEAB and the Council. CL&P maintains, however, that a proposed alternative must meet all of the needs that are addressed by the original applicant, which in this case includes solutions to local reliability concerns in the Springfield, Massachusetts area. This view is stated in CL&P’s April 3, 2009 Comments Concerning the Completeness of NRG’s Application and in the Fitzgerald Letter. In both filings, CL&P urges the Council to reject the Meriden Plant as a qualifying alternative to the GSRP and MMP because it cannot resolve the reliability problems that exist today on the Massachusetts and Connecticut transmission lines and substations. CL&P April 3, 2009 Comments, p. 6; Fitzgerald Letter, p. 2. CL&P’s interrogatories to NRG, dated March 24, 2009, are designed principally to elicit responses from NRG to demonstrate that point.

NRG has not claimed that the Meriden Plant will resolve all or even most of the local reliability issues in Massachusetts that are listed in the CL&P Application. When NRG submitted its RFP Proposal, it relied on the RFP partial need criteria and further understood, based on the RFP preferential criteria and communications with prospective bidders during the RFP process, that the interests of Connecticut ratepayers would be given great weight when evaluating competing solutions and selecting the "most appropriate alternative" pursuant to C.G.S. § 16-50p(a)(3)(F). NRG therefore proposed its Meriden Plant on the basis that it would provide environmental and economic benefits to Connecticut consumers, including creation of in-state jobs and other economic stimuli, which surpass the benefits that could be offered by the GSRP and the MMP.

Despite the substantial benefits of the Meriden Plant, Attorney Fitzgerald claims that the Council is limited to an all or nothing approach and may only select either the GSRP/MMP or the Meriden Plant based on the need as stated in the CL&P Application. He writes:

If a project will not meet the 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 in 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. Fitzgerald Letter, p. 3.

NRG respectfully submits that this is a very narrow reading of the law that forecloses the possibility that the Meriden Plant (1) would better address the issues created by the north to south power flows, (2) bring significant environmental and economic benefits to Connecticut, and (3) open the door to a less expensive transmission solution to the local Springfield, Massachusetts reliability problems cited in the CL&P Application. CL&P's suggested approach also fails to recognize that the reliability needs may evolve throughout the course of this proceeding as ISO-NE reevaluates planned transmission projects, including the NEEWS components. NRG does not agree that Connecticut law requires such a rigid stance, but posits, instead, that the law affords the Council ample discretion to investigate a combination of solutions that would provide an alternative that maximizes the benefits to Connecticut consumers while recognizing that the state is part of a larger integrated electricity grid with needs that are evolving. Such an approach certainly would foster a more robust integrated planning process for the state of Connecticut.

Request for Clarification

NRG believes that the Meriden Plant can offer substantial economic and environmental benefits to Connecticut as detailed in the NRG Application. With special relevance to the NEEWS project, NRG also believes that the Meriden Plant will help reduce north to south power flows by increasing native generating resources in Connecticut. With that said, it is clear from CL&P's April 3, 2009 Comments, the Fitzgerald Letter and the interrogatories propounded on NRG by CL&P that CL&P contends that an essential criterion for consideration in this proceeding is that an alternative be capable of resolving the thermal overloads and voltage violations that are confined to the Springfield, Massachusetts area. Since NRG has no reason to believe that the Meriden Plant, standing alone, would resolve these local Massachusetts reliability issues, NRG seeks guidance from the Council regarding its methodology and evaluation criteria in reviewing the NRG Application in this proceeding. With a clearer understanding of these criteria, NRG can better judge whether its continued participation in this proceeding is in the best interests of Connecticut ratepayers and is a prudent use of our collective resources. In the meantime, NRG respectfully requests a stay in responding to the interrogatories propounded by CL&P and the Office of Consumer Counsel pending its receipt of the procedural clarification herein requested.

Sincerely,

*Andrew W. Lord (D. Kleefeld)*  
Andrew W. Lord

cc: Jonathan J. Milley, NRG  
Julie L. Friedberg, Esq., NRG  
Service List