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April 11, 2016

CT Siting Council  
Ten Franklin Square  
New Britain, CT 06051

Re: : Eversource Energy Application for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a 115-kilovolt (kV) bulk substation located at 290 Railroad Avenue, Greenwich, Connecticut, and two 115-kV underground transmission circuits extending approximately 2.3 miles between the proposed substation and the existing Cos Cob Substation, Greenwich, Connecticut, and related substation improvements.

Docket 461

Ladies and Gentlemen,

Please find enclosed Pet Pantry's Post Hearing Brief on their behalf together with 15 copies included. Please notify me regarding any questions.

Respectfully Submitted,

s/Mark L. Bergamo

Mark L. Bergamo

Enc.



#### PRELIMINARY STATEMENT:

On June 26, 2015, The Applicant, The Connecticut Light and Power Company doing business as Eversource Energy, (“Eversource”) filed for a Certificate of Environmental Compatibility and Public Need for the construction, maintenance, and operation of a 115-kilovolt (kV) bulk substation located at 290 Railroad Avenue, Greenwich, Connecticut, and two 115-kV underground transmission circuits extending approximately 2.3 miles between the proposed substation and the existing Cos Cob Substation, Greenwich, Connecticut, and related substation improvements.

#### SYNOPSIS OF FACILITY AND LINES:

Eversource seeks to build a new bulk substation at 290 Railroad Avenue, Greenwich, Connecticut which would be in addition to existing station at Cos Cob. Several Greenwich substations are in operation including that which currently is located at 330 Railroad Avenue (Prospect substation) and is essentially across the street from 290 Railroad Avenue. The Applicant opines that a new facility is needed to relief the Cos Cob substation from high load concentrations and to prevent service interruptions. Eversource claimed to have based their forecasts on current load forecasts which stated that the Cos Cob transformers would reach permissible load rating in 2017. In addition to which Eversource proposes to install two new 115 kV transmission lines. Eversource claims that the projected growth of use in Greenwich dictates the necessity of the new facility as well as the claim that the greatest concentration of electrical

services is in the downtown Greenwich area.

## PROCEDURAL BACKGROUND

### b.) Consultation with Town of Greenwich

A Municipal Consultation Filing for the both the Substation and Line was filed with the Town of Greenwich in February 2015. A public hearing was held in accordance therewith. Both comments and questions were submitted by the Town of Greenwich, its residents and business owners objected to the Application.

Subsequently, The Town of Greenwich also submitted its review of the Application remarking that the information submitted was not sufficient enough to recommend approval of the location and the plan and there was a further need for more information that was necessary to have the Town make a reasonable decision as to the feasibility and necessity of the substation and lines.

### c.) Application, Parties and Pre-Hearing filings

Due to the large number of participants as intervenors and parties in the Application Process and numerous filings of motions and interrogatories, the Council should refer to the record for such information.

### d.) Public Hearings

Public hearings were held on 9/1/15, 10/6/15, 12/1/15, 1/12/16, 2/23/16 and 3/10/16.

## STATEMENT OF FACTS

Eversource provided in its Application and through responses to Interrogatories submitted by Intervenors and the Office of Consumer Counsel and the Siting Council several charts which were alleged to show the amount of use for the Greenwich area. (See tables in the Application E-1, E-2, E-5, E-6), Such charts or graphs initially were designed to show increases of use which was to justify the need requirement under the Application. Additional charts or tables showing usage and the like did not show any great increase in the use of its electrical services but a reduction over the last several years or at times a minimal increase. (See responses by Eversource to interrogatories OCC-30, Occ-46 and LF 020 submitted March 7, 2016)

Further the relocation of its Prospect substation to 290 Railroad Avenue demonstrated to this Council an unnecessary and expensive move as the currently existing site was both larger in size and met the area requirements sought by Eversource. The existing site would only be partially decommissioned. There will be no change in feeding the substation. (see Eversource's Response to interrogatory OCC-75 dated February 16, 2016) One source is sufficient to serve the foreseeable future. (see Eversource's Response to interrogatory OCC-78 dated February 16, 2016) On both sites reconstruction of the facilities would have to be undertaken. No real specifics of the reconstruction and site work were distinguished by the two sites nor was there evidence that the current site could, in fact, be reconstructed to meet the goals advocated in the Application. In fact the addition of the site at 290 Railroad Ave. would merely serve to increase the amount of unnecessary traffic and interruption of business and everyday life at that site. There will be no effect if the Greenwich substation is out of service. (see Eversource's Response to interrogatory OCC-80 dated February 16, 2016) The current facility at Prospect is still well

under the load capacities. (see Eversource's Response to interrogatory OCC-83 dated February 16, 2016)

Little consideration or explanation was given as to why the alternate site at 281 Railroad Avenue was abandoned or why 330 Railroad Avenue was not feasible. The current proposed site is next to a Gas facility. No studies have admittedly been done by Eversource which take into consideration of the impact as to safety, public health traffic, business interruptions, etc .... To be quite frank, a great number of necessary studies were not undertaken by Eversource nor were considered as to being pertinent to the Application so that the Town of Greenwich and its citizens could seriously review same as to viability, necessity, feasibility and impact.

In addition to the substation (which load distributions could admittedly be taken over by improvements in the surrounding substations without major disruptions and impacts), Eversource seeks to install two new transmission lines to that substation. Among several (4) proposed paths, one of these seek to cross over Bruce Park and residential areas. Severe excavations in the proposed path seek to cut a swath of destruction among both the natural preserved areas and homesteads while impacting the use and beauty of the natural areas and conduct of recreational and everyday life. Large trenches are proposed to be built which will interrupt the daily life of Greenwich residents. The area most suited is proposed to run close to the highway and even alternatives to installations and structures have been proposed. Eversource has no idea what type of expansion, if any, of the highway system and how it will impact its transmissions. (see Eversource's Response to interrogatory Pantry 02-10 and 11 dated November 30, 2015)

It was further admitted that the construction of the new facility would not prevent overloads or crashes due to electrical storms or other natural disasters or unforeseen circumstances. Nor were there any plans involved to prevent such circumstances. Eversource bases its analysis on one situation (overload) that occurred over last several years and offered analysis for a paltry short time of a couple of years when load capacities resulted in any shortage. Extrapolating from the testimony of Eversource's witnesses, a realistic solution is the upgrade of existing substations to properly takeover distributions not met by emergencies and not an additional substation. Tables represented for loads and usage throughout section E of the Application misstate and are erroneously calculated so as to skew actual usage and load figures over a short time frame rather than including the last two years ( which have only recently submitted and were flawed) are relevant. Even then, such studies were unreliable as Eversource admits it had problems with its own reports and had to make questionable estimates. Eversource's responses to the most recent interrogatories and Late filings demonstrate a continuing decrease of use and loads over years. (see Eversource's Response to interrogatory OCC-46 through submission LF 20 and its response dated February5, 2016 vas to OCC-65) Reliability is not necessarily improved as outages are not related to distribution but transmissions. (see Eversource's submission LF-024) A new substation is not both economical as well as practical where the benefit is at best minimal and may be shared by the other substations in their upgrades which will eventually have to occur anyways.

The current facility located at 330 Railroad Avenue actually best serves the interests of the public at large while minimizing any impact to the Greenwich area. The facility has greater land area, existing facilities which would also be kept even should a new substation be built

anywhere. Costs are not that far above if not comparable as to the proposed project and should the other substation be properly upgraded and adjusted is likely to fall within the parameters sought by Eversource. Eversource admitted it could improved its Cos Cob site. It could acquire additional land and upgrade its capacities as recently discussed at the last two public hearings.

At the public hearings, Eversource had no studies as to what is occurring with the energy alternatives except those in which it had participation. (Eversource's Response to interrogatory Pantry 02-21) It made random and unsupported statements that energy consumption will largely increase in the next decade or so. On the other hand, the Town of Greenwich has shown that its population is maintaining if nor diminishing. Use studies show that it has been declining. Nor has Eversource made any efforts to actively involve both businesses and residents in energy alternatives. It did state that it has a program out there but showed no active promotion among the populace. The Town of Greenwich, on the other hand, has been active in obtaining energy alternative and becoming more efficient in its own municipal use of energy.

Both submissions by the Town of Greenwich and various state and local officials familiar with the Town of Greenwich have voiced their opposition to this Application and have advocated that further studies be undertaken before this or any similar Application be approved. See comments by Representatives Floren, Cammillo, Bocchin, U.S. Sentaor Richard Blumenthal, Attorney General George Jepson and State Senator L. Scott Frantz.



## APPLICABLE STATUTES

### **“Sec. 16-50i. Definitions.** As used in this chapter:

(a) “Facility” means: (1) An electric transmission line of a design capacity of sixty-nine kilovolts or more, including associated equipment but not including a transmission line tap, as defined in subsection (e) of this section; (2) a fuel transmission facility, except a gas transmission line having a design capability of less than two hundred pounds per square inch gauge pressure or having a design capacity of less than twenty per cent of its specified minimum yield strength; (3) any electric generating or storage facility using any fuel, including nuclear materials, including associated equipment for furnishing electricity but not including an emergency generating device, as defined in subsection (f) of this section or a facility (A) owned and operated by a private power producer, as defined in section 16-243b, (B) which is a qualifying small power production facility or a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978, as amended, or a facility determined by the council to be primarily for a producer’s own use, and (C) which has, in the case of a facility utilizing renewable energy sources, a generating capacity of one megawatt of electricity or less and, in the case of a facility utilizing cogeneration technology, a generating capacity of twenty-five megawatts of electricity or less; (4) any electric substation or switchyard designed to change or regulate the voltage of electricity at sixty-nine kilovolts or more or to connect two or more electric circuits at such voltage, which substation or switchyard may have a substantial adverse environmental effect, as determined by the council established under section 16-50j, and other facilities which may have a substantial adverse environmental effect as the council may, by regulation, prescribe; (5) such community antenna television towers and head-end structures, including associated equipment, which may have a substantial adverse environmental effect, as said council shall, by regulation, prescribe; and (6) such telecommunication towers, including associated telecommunications equipment, owned or operated by the state, a public service company or a certified telecommunications provider or used in a cellular system, as defined in the Code of Federal Regulations Title 47, Part 22, as amended, which may have a substantial adverse environmental effect, as said council shall, by regulation, prescribe;”

### **Sec. 16-50i. provides:**

“(3) The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine:

(A) Except as provided in subsection (b) or (c) of this section, a public need for the facility and the basis of the need;

(B) The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, ecological balance, public health and safety, scenic, historic and recreational values, forests and parks, air and water purity and fish, aquaculture and wildlife;

(C) Why the adverse effects or conflicts referred to in subparagraph (B) of this subdivision are not sufficient reason to deny the application;

(D) In the case of an electric transmission line, (i) what part, if any, of the facility shall be located overhead, (ii) that the facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving the state and interconnected utility systems and will serve the interests of electric system economy and reliability, and (iii) that the overhead portions, if any, of the facility are cost effective and the most appropriate alternative based on a life-cycle cost analysis of the facility and underground alternatives to such facility, are consistent with the purposes of this chapter, with such regulations or standards as the council may adopt pursuant to section 16-50t, including, but not limited to, the council’s best management practices for electric and magnetic fields for electric

transmission lines and with the Federal Power Commission "Guidelines for the Protection of Natural Historic Scenic and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities" or any successor guidelines and any other applicable federal guidelines and are to be contained within an area that provides a buffer zone that protects the public health and safety, as determined by the council. In establishing such buffer zone, the council shall consider, among other things, residential areas, private or public schools, licensed child day care facilities, licensed youth camps or public playgrounds adjacent to the proposed route of the overhead portions and the level of the voltage of the overhead portions and any existing overhead transmission lines on the proposed route. At a minimum, the existing right-of-way shall serve as the buffer zone;

(E) In the case of an electric or fuel transmission line, that the location of the line will not pose an undue hazard to persons or property along the area traversed by the line;

(F) In the case of a facility described in subdivision (6) of subsection (a) of section 16-50i that is (i) proposed to be installed on land under agricultural restriction, as provided in section 22-26cc, that the facility will not result in a material decrease of acreage and productivity of the arable land, (ii) proposed to be installed on land near a building containing a school, as defined in section 10-154a, or a commercial child day care center, as described in subdivision (1) of subsection (a) of section 19a-77, that the facility will not be less than two hundred fifty feet from such school or commercial child day care center unless the location is acceptable to the chief elected official of the municipality or the council finds that the facility will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood in which such school or commercial child day care center is located, or (iii) proposed to be installed on land owned by a water company, as defined in section 25-32a, and which involves a new ground-mounted telecommunications tower, that such land owned by a water company is preferred over any alternative telecommunications tower sites provided the council shall, pursuant to clause (iii) of this subparagraph, consult with the Department of Public Health to determine potential impacts to public drinking water supplies in considering all the environmental impacts identified pursuant to subparagraph (B) of this subdivision. The council shall not render any decision pursuant to this subparagraph that is inconsistent with federal law or regulations; and

(G) That, for a facility described in subdivision (5) or (6) of subsection (a) of section 16-50i, the council has considered the manufacturer's recommended safety standards for any equipment, machinery or technology for the facility.

(b) (1) Prior to granting an applicant's certificate for a facility described in subdivision (5) or (6) of subsection (a) of section 16-50i, the council shall examine, in addition to its consideration of subdivisions (1) to (3), inclusive, of subsection (a) of this section: (A) The feasibility of requiring an applicant to share an existing facility, as defined in subsection (b) of section 16-50aa, within a technically derived search area of the site of the proposed facility, provided such shared use is technically, legally, environmentally and economically feasible and meets public safety concerns, (B) whether such facility, if constructed, may be shared with any public or private entity that provides telecommunications or community antenna television service to the public, provided such shared use is technically, legally, environmentally and economically feasible at fair market rates, meets public safety concerns, and the parties' interests have been considered, (C) whether the proposed facility would be located in an area of the state which the council, in consultation with the Department of Energy and Environmental Protection and any affected municipalities, finds to be a relatively undisturbed area that possesses scenic quality of local, regional or state-wide significance, and (D) the latest facility design options intended to minimize aesthetic and environmental impacts. The council may deny an application for a certificate if it determines that (i) shared use under the provisions of subparagraph (A) of this subdivision is feasible, (ii) the applicant would not cooperate relative to the future shared use of the proposed facility, (iii) the proposed facility would substantially affect the scenic quality of its location or surrounding neighborhood and no public safety concerns require that the proposed facility be constructed in such a location, or (iv) no public safety concerns require that a proposed facility owned or operated by the state be constructed in that location. In evaluating the public need for a cellular facility described in subdivision (6) of subsection (a) of section 16-50i, there shall be a presumption of public need for personal wireless services and the council shall be limited to consideration of a specific need for any proposed facility to be used to provide such services to the public.

(2) When issuing a certificate for a facility described in subdivision (5) or (6) of subsection (a) of section 16-50i,

the council may impose such reasonable conditions as it deems necessary to promote immediate and future shared use of such facilities and avoid the unnecessary proliferation of such facilities in the state. The council shall, prior to issuing a certificate, provide notice of the proposed facility to the municipality in which the facility is to be located. Upon motion of the council, written request by a public or private entity that provides telecommunications or community antenna television service to the public or upon written request by an interested party, the council may conduct a preliminary investigation to determine whether the holder of a certificate for such a facility is in compliance with the certificate. Following its investigation, the council may initiate a certificate review proceeding, which shall include a hearing, to determine whether the holder of a certificate for such a facility is in compliance with the certificate. In such proceeding, the council shall render a decision and may issue orders it deems necessary to compel compliance with the certificate, which may include, but not be limited to, revocation of the certificate. Such orders may be enforced in accordance with the provisions of section 16-50u.

(c) (1) The council shall not grant a certificate for a facility described in subdivision (3) of subsection (a) of section 16-50i, either as proposed or as modified by the council, unless it finds and determines a public benefit for the facility and considers neighborhood concerns with respect to the factors set forth in subdivision (3) of subsection (a) of this section, including public safety.

(2) The council shall not grant a certificate for a facility described in subdivision (1) of subsection (a) of section 16-50i, that is substantially underground or underwater except where such facility interconnects with existing overhead facilities, either as proposed or as modified by the council, unless it finds and determines a public benefit for a facility substantially underground or a public need for a facility substantially underwater.

(3) For purposes of this section, a public benefit exists when a facility is necessary for the reliability of the electric power supply of the state or for the development of a competitive market for electricity and a public need exists when a facility is necessary for the reliability of the electric power supply of the state.

(4) Any application for an electric transmission line with a capacity of three hundred forty-five kilovolts or more that is filed on or after May 1, 2003, and proposes the underground burial of such line in all residential areas and overhead installation of such line in industrial and open space areas shall have a rebuttable presumption of meeting a public benefit for such facility if the facility is substantially underground and meeting a public need for such facility if the facility is substantially above ground. Such presumption may be overcome by evidence submitted by a party or intervenor to the satisfaction of the council.

(d) If the council determines that the location of all or a part of the proposed facility should be modified, it may condition the certificate upon such modification, provided the municipalities affected by the modification and the residents of such municipalities shall have had notice of the application pursuant to subsection (b) of section 16-50i.

(e) In an amendment proceeding, the council shall render a decision not later than ninety days after the filing of the application or adoption of the resolution initiating the proceeding. The council shall file an opinion with its order stating its reasons for the decision. The council's decision shall include the findings and determinations enumerated in subsection (a) of this section which are relevant to the proposed amendment. "

## FAILURE TO SATISFY STATUTORY REQUIREMENTS

### a.) Need

Based upon the submission by the Applicant, there has not been demonstrated a clear and compelling need for the additional substation. Charts provided by the Applicant have shown that the demand for energy consumption has effectively been on the decline. The Applicant creates an atmosphere of impending doom to its electrical system in its Application, yet the evidence presented does not support that conclusion. The Siting Council, in its review, can see that what was represented in the Application subsequently changed as to the use and distribution of the electrical system in that the new substation is merely an upgraded station to meet distribution needs. The existing substation at 330 Railroad Avenue is still and will still provide services. The new substation is really a redundant service. The growth of the Town of Greenwich, cited by the Applicant, actually has not increase but rather appears to be on a decline as testified by officials from the Town.

Further increases as to the need for electrical services is at best marginally increasing. Alternate forms of electrical services are being used and will continue to increase. At best moderate and less inexpensive and less intrusive upgrades to the over-all existing substations and systems would well match if not exceed demands

### b.) Impact

Neighborhoods will be deprived of the use of their parks. There will be interruption of services and traffic congestion, interruption, and re-routing. Many scenic areas will be

destroyed in order to excavate, cross-over and construct facilities under this plan.. Local neighborhoods will also see long standing trees in their areas destroyed. In the downtown area, business operation are likely to be disrupted and businesses long established uprooted. This is not merely a project that involves short term construction but will occur over a much longer and extended period of time subject to possible delays.

No studies as to the impact as to traffic, public safety, emergency response, noise pollution, City services, security, public health, or affect on land values have been proven. Eversource could not produce even one witness at the public hearings that was not an employee of Eversource to testify on its behalf.

c.) Impact v. Benefits

No viable information was provided when requested of market studies as to the alternate sites and the actual impact there to were provided. The Application merely “dumbed” down any information whereby the Town and its citizens could make a decision as to the feasibility of other sites.

The fact that this is a \$140 million dollar project that affects both the rate payers and the Town building a new facility in the heart of downtown Greenwich without any information provided by the Applicant on the pretense of extremely minimal if not non existent need does not justify this Application nor meet the criterion under which the State Statue charges the Siting Council to make its findings.

d.) Other consideration Pertinent to Review

The Council should require the Applicant as alternatives to the Application site reject the current proposed site, require that the current existing site at 330 Railroad Avenue be improved rather than disrupting the whole downtown area and dislocating a business that has been well established over a great number of years. Alternately, the Cos Cob site was shown to be a viable area for improvement without such major impact as well as nominal improvements to other substations throughout the Greenwich area.

Further, in so far as the new lines are concerned, the Applicant has shown less intrusive paths nearing to the highway route and tower installation more viable with less impact to surrounding neighborhoods and park.

e.) Property Rights

As clearly demonstrated in the course of the hearings, the Siting Council has the right to consider the ownership of the potential site property in making its decision,. The fact have clearly shown that Eversource does not own 290 Railroad Avenue nor do they have a short term option to acquire same.

For the ratepayers who will ultimately bear the cost of this project, there is a massive risk of millions of dollars being invested without any permanent right to use the facility. No determination has been made as to costs or time as to acquiring and dispossessing any tenant.

This intervene seriously doubts if there is any other facility in the state subject to

the same set of facts. Lack of ownership is a practical issue which this Council has a right to take into consideration as they should.

CONCLUSIONS:

For the Above reasons, this Application should be denied or modified as suggested in this brief.

PET PANTRY SUPER DISCOUNT STORES LLC Intervenor

s/ Mark L. Bergamo  
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**CERTIFICATION**

I hereby certify that on April 11, 2016, a copy of the foregoing POST HEARING BRIEF was filed by Pet Pantry Super Discount Stores LLC to Eversource Energy electronically and the original and 15 copies was served to all known parties, applicant and intervenors to: by U.S. Mail first class postage prepaid and by electronic mailing to:

The Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051  
[Sitingcouncil@po.state.ct.us](mailto:Sitingcouncil@po.state.ct.us)

See Attached Service List

Pet Pantry Super Discount Stores LLC Intervenor

By s/Mark L. Bergamo  
Mark L. Bergamo  
Comissioner of the Superior Court

**LIST OF PARTIES AND INTERVENORS**  
**SERVICE LIST**

Status Granted	Document Service	Status Holder (name, address & phone number)	Representative (name, address & phone number)
Applicant	<input checked="" type="checkbox"/> E-Mail	Eversource Energy	<p>Jacqueline Gardell Project Manager Eversource Energy 56 Prospect Street Hartford, CT 06103 <a href="mailto:jacqueline.gardell@eversource.com">jacqueline.gardell@eversource.com</a></p> <p>John Morissette Project Manager-Transmission Siting-CT Eversource Energy 56 Prospect Street Hartford, CT 06103 <a href="mailto:john.morissette@eversource.com">john.morissette@eversource.com</a></p> <p>Jeffery Cochran, Esq. Senior Counsel, Legal Department Eversource Energy 107 Selden Street Berlin, CT 06037 <a href="mailto:jeffery.cochran@eversource.com">jeffery.cochran@eversource.com</a></p> <p>Marianne Barbino Dubuque Carmody Torrance Sandak &amp; Hennessey LLP 50 Leavenworth Street Waterbury, CT 06702 <a href="mailto:mdubuque@carmodylaw.com">mdubuque@carmodylaw.com</a></p>
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Party Approved on January 12, 2016	<input checked="" type="checkbox"/> E-Mail	The Honorable Peter J. Tesei First Selectman Town of Greenwich 101 Field Point Road Greenwich, CT 06830 <a href="mailto:ptesei@greenwichct.org">ptesei@greenwichct.org</a>	Julie D. Kohler, Esq. David A. Ball, Esq. Cohen and Wolf, P.C. P.O. Box 1821 Bridgeport, CT 06601 <a href="mailto:jkohler@cohenandwolf.com">jkohler@cohenandwolf.com</a> <a href="mailto:dball@cohenandwolf.com">dball@cohenandwolf.com</a>