

CONNECTICUT SITING COUNCIL
DOCKET NO. 470B

IN THE MATTER OF:

APPLICATION OF NTE CONNECTICUT, LLC FOR A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED FOR THE CONSTRUCTION, MAINTENANCE AND OPERATION OF AN ELECTRIC POWER GENERATING FACILITY OFF LAKE ROAD IN KILLINGLY, CONNECTICUT

APPLICANT'S SUPPLEMENTAL POST-HEARING BRIEF

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Executive Summary

The Killingly Energy Center (“KEC”) project first came before the Connecticut Siting Council in 2016. The Council denied without prejudice the initial application in May 2017, finding that, due to NTE’s failure to secure a capacity supply obligation from ISO-NE, NTE had not demonstrated a need for the facility. Since then, there have been numerous events and changes that warrant the Council modifying its earlier decision and issuing the Certificate of Environmental Compatibility and Public Need, including the following:

- NTE received a capacity supply obligation through the ISO-NE forward capacity market for the capacity commitment periods from June 1, 2022 to May 30, 2029, as a resource needed to meet the region’s reliability needs;
- NTE changed its design to include the Mitsubishi J Series combustion turbine generator, allowing for improved efficiency and an increase in nominal output from 550 MW to 650 MW, at virtually no additional cost or environmental impact;
- NTE obtained its air permit, and all appropriate modifications, from the Connecticut Department of Energy and Environmental Protection, reflecting dual fuel capability;
- NTE and the Town of Killingly negotiated and executed a Tax Stabilization Agreement and a Community Environmental Benefit Agreement;
- NTE finalized a proposed Property Valuation Guarantee Agreement for property owners within 2,500 feet of the facility, reached out to those neighbors, and has reached agreement with a number of neighbors;

- NTE and the Town of Killingly reached agreement on all issues raised in the Municipal Orders;
- Yankee Gas and NTE have executed an Engineering Agreement for engineering and permitting of the lateral gas service line that will serve the KEC facility, and are working on finalizing a service agreement; and
- NTE has entered into a Water Supply Agreement and two Construction Agreements with the Connecticut Water Company to allow for construction of infrastructure and supply of up to 400,000 gallons of water per day to KEC.

With these changes, NTE has demonstrated that there is a need for KEC in Connecticut and throughout New England, that KEC is necessary for the reliability of the electric supply, that KEC will promote a competitive and efficient market for electricity, and that KEC will provide environmental and other benefits to the Town of Killingly and the State of Connecticut with minimal environmental impacts.

The KEC project satisfies all of the relevant statutory criteria, and the Council should grant the Certificate of Environmental Compatibility and Public Need.

I. INTRODUCTION

This Supplemental Post-Hearing Brief is filed on behalf of the Applicant, NTE Connecticut LLC (“NTE”) pursuant to Section 16-50j-31 of the Regulations of Connecticut State Agencies and Council directives. (Tr. 5/2/19 pp. 145-146). The supplemental brief evaluates the new evidence filed in Docket No. 470B in light of the Council’s review criteria, as set forth in Connecticut General Statutes (“Conn. Gen. Stat.”) § 16-50p, and addresses other issues raised

throughout the course of this reopened proceeding.¹

II. FACTUAL BACKGROUND

KEC is a 650-megawatt (“MW”) (nominal) combined cycle electric generating facility. The property on which KEC will be located is proximate to the Killingly Industrial Park and an existing 345 - kilovolt transmission line, and consists of a 63-acre parcel at 189 Lake Road (on the north and west side of Lake Road), referred to as the Generating Facility Site, and a 10-acre parcel at 180 Lake Road (on the south and east side of Lake Road), referred to as the Switchyard Site. (NTE 1, p. 114, NTE 14, p. 1; D470B – NTE 1(c)).

The primary equipment at the plant will include a Mitsubishi Model M501JAC (“J Series”) combustion turbine generator, a heat recovery steam generator (“HRSG”), a steam turbine generator, and an air-cooled condenser, all located on the Generating Facility Site. (NTE 1, p. 28). KEC will be connected to a utility switchyard on the Switchyard Site. The switchyard and the Switchyard Site will ultimately be owned by Eversource. The KEC electric output will flow from its on-site switchyard to the Eversource switchyard and then to Eversource’s transmission lines, which run immediately east of the Switchyard Site. (NTE 1, p. 22; D470B – NTE 1(c)). KEC will be fueled by natural gas from Algonquin and Yankee Gas Service Company, delivered under a long-term firm supply contract with Emera Energy Services Inc. (“Emera”), with ultra-low sulfur distillate (“ULSD”) available as a backup fuel. Connecticut Water Company (“CWC”) will supply water to KEC. Wastewater from KEC will be discharged to the Killingly wastewater collection and treatment facility. (NTE 1, p. ES-1; D470B – NTE 1; D470B – NTE 7 Nos. 43 (E), (F) and (I)).

¹ NTE does not, in this Supplemental Post-Hearing Brief, address matters that have not changed since the original Application. These matters are addressed in NTE’s April 24, 2017 Post-Hearing Brief and in the Council’s Decision dated May 11, 2017.

III. PROCEDURAL BACKGROUND

On August 17, 2016, NTE filed with the Connecticut Siting Council (“Council”) an application (the “Application”) for a Certificate of Environmental Compatibility and Public Need (“Certificate”), pursuant to Conn. Gen. Stat. §§ 16-50g et seq., for the construction, maintenance and operation of KEC to be located off Lake Road in Killingly, Connecticut (the “Property”). (Council Docket No. 470). The Council conducted a public hearing on the Application in Killingly on October 20, 2016, and a series of evidentiary hearings between November 3, 2016 and March 23, 2017.

In early February 2017, prior to the close of the evidentiary hearing, NTE participated in the eleventh Forward Capacity Auction (“FCA 11”) conducted by the New England Independent System Operator (“ISO-NE”). At the time of FCA 11, there remained a number of cost and schedule uncertainties associated with KEC. Given these uncertainties, NTE elected to withdraw from FCA 11 prior to bidding in the final round of the auction. On May 11, 2017, the Council issued its Findings of Fact, Opinion, and Decision and Order (collectively the “Decision”) denying the Application, without prejudice. The Council found that, following the results of FCA 11, ISO-NE had determined KEC was not required for resource adequacy, at least through the capacity commitment period of 2020 through 2021. (D470B- NTE 1). During its deliberations on the Decision, the Council recognized and discussed NTE’s ability to request that the Docket No. 470 proceeding be reopened on a showing of changed conditions.

On January 19, 2018, NTE filed with the Council a motion to reopen and modify the Council’s decision in Docket No. 470 on a showing of changed conditions (the “2018 Motion”), including NTE’s expectation that it would receive a capacity supply obligation (“CSO”) in FCA 12. On February 8, 2018, however, NTE notified the Council that KEC was not selected by ISO-

NE to receive a CSO in FCA 12. Thereafter, NTE withdrew the 2018 Motion. (D470B – NTE 1).

On January 18, 2019, NTE filed a motion to reopen and modify the Council’s decision in Docket No. 470 on a showing of changed conditions (the “2019 Motion”). Similar to the 2018 Motion, the 2019 Motion described the steps NTE had taken to secure important permits, finalize project-related agreements and make beneficial facility modifications since the Council’s May 11, 2017 denial without prejudice. (D470B – NTE 1).

On February 4, 2019, NTE participated in FCA 13 and was notified, on February 6, 2019, that KEC was selected by ISO-NE to receive a CSO for the capacity commitment periods of 2022 through 2029. (D470B – NTE 2). On February 15, 2019, the Council granted NTE’s 2019 Motion and reopened the proceedings as Docket No. 470B:

IV. CHANGED CONDITIONS

Since the Council last considered the Application, NTE has improved the project design, eliminated the cost and schedule uncertainties, and secured a CSO demonstrating that KEC is necessary for the reliability of the electric supply in Connecticut and throughout New England. (D470B – NTE 1; D470B – NTE 2). The combination of these changed conditions caused the Council to reopen the proceedings, and the Council should now find that the Certificate should be granted.

The changed conditions include the following:

- NTE changed the combustion turbine to incorporate improved technology, switching to the Mitsubishi J Series combustion turbine generator, providing greater efficiency and the ability to increase the nominal output to 650 MW, while continuing to have dual fuel capability. (D470B – NTE 1);

- On December 10, 2018, NTE secured the approval of a minor modification to its air permit from the Department of Energy and Environmental Protection (“DEEP”) reflecting NTE’s plan to use improved turbine technology and increase generation output to approximately 650 MW. (D470B – NTE 1(c) Appendix A);
- ISO-NE notified NTE on February 6, 2019 that KEC was selected to receive a CSO for the capacity commitment periods from 2022 to 2029. (D470B – NTE 2);
- NTE has executed an Engineering Agreement with Yankee Gas for engineering and permitting of the lateral gas service line needed to provide for the delivery of natural gas from the Algonquin transmission line to KEC. NTE is working with Yankee Gas to finalize a service agreement. (D470B – NTE 1; D470B – NTE 7 No. 43 B);
- NTE has entered into a Water Supply Agreement with CWC, dated October 31, 2017, for the delivery of up to 400,000 gallons per day of water to KEC. (D470B – NTE 7 No. 43 E);
- NTE has entered into two separate Construction Agreements with CWC through which NTE has committed to pay all costs associated with the installation of a new water service line connecting the CWC system to KEC and the Killingly Industrial Park and for the interconnection of CWC’s Plainfield and Crystal Water Company systems. (D470B – NTE 7 No. 43 F);
- On January 30, 2018, the Town of Killingly Town Council approved and executed NTE’s proposed Tax Stabilization Agreement and Community Environmental Benefit Agreement (“CEBA”) for KEC. (D470B – NTE 7 No. 43 G and H);

- NTE has finalized the form of a Property Valuation Guarantee Agreement (“PVG”) and has offered the PVG to all property owners within 2,500 feet of KEC. Several PVG agreements have been signed and a number are still pending. (D407B – NTE 1; Tr. 5/2/19 p. 139-140); and
- NTE has improved the overall layout of the KEC Facility with minor repositioning of certain buildings, structures and facility components, relocating the perimeter access road, and eliminating the proposed retaining wall in the northeasterly portion of the site resulting in an increased setback from sensitive on-site environmental resources. (D470B – NTE 1(c)).

V. THE APPLICATION SATISFIES THE CRITERIA OF CONN. GEN. STAT. § 16-50p FOR ISSUANCE OF A CERTIFICATE OF ENVIRONMENTAL COMPATIBILITY AND PUBLIC NEED

Section 16-50p of the Public Utility Environmental Standards Act , Conn. Gen. Stat. § 16-50g *et seq.*, sets forth the criteria for Council decisions in Certificate proceedings. The Council must find that there is a public need for and public benefit of the facility, while considering neighborhood concerns and potential environmental impacts. 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.” Conn. Gen. Stat. § 16-50p(c)(3). The Council should consider “the nature of the probable environmental impact” of the proposed facility through review of the numerous elements specified in Conn. Gen. Stat. § 16-50p(a)(3)(B), while considering neighborhood concerns (Conn. Gen. Stat. §16-50p(c)(1)), and then demonstrate that these impacts “are not sufficient reason to deny the application.” Conn. Gen. Stat. § 16-50p(a)(3)(C). The evidence in the record for this docket establishes that the above criteria have been satisfied and that the Applicant is entitled to a Certificate.

A. The KEC Facility Is Necessary For The Reliability Of The Electric Power Supply Of The State And ISO-NE

1. KEC received a Capacity Supply Obligation in FCA 13, meaning that ISO-NE is relying on KEC's capacity beginning in June 2022.

ISO-NE conducts the FCA to procure sufficient electric supply to ensure system reliability. Successful bidders into the auction (those who "clear the auction") receive a CSO for the capacity commitment period, meaning ISO-NE is relying on their capacity to meet projected future electricity needs. Any facility owner with a CSO is required to offer its energy into the daily energy markets during the capacity commitment period in order to maintain reliability across ISO-NE. Because NTE received a CSO in FCA 13, ISO-NE needs and is relying on KEC's capacity to be available beginning in June 2022, for a seven year period. (D470B – NTE 1; D470B – NTE 2).

2. ISO-NE, and thus Connecticut, needs additional generating capacity to offset the likely retirement of as much as 5,000 MW of existing capacity and to replace capacity previously thought to be, but no longer is, available from proposed plants.

ISO-NE recognizes that additional generating capacity is needed in New England to offset the retirement of older, less efficient power plants, with significantly higher cost energy. ISO-NE, in its 2019 Regional Electricity Outlook, states that "more than 5,200 MW of oil, coal, and nuclear power plants will have retired from 2013 to 2022, and another 5,000 MW of coal- and oil-fired generation could be retiring in coming years." (D470B – Council Administrative Notice Item No. 45 – 2019 REO, p. 18). ISO-NE identifies Connecticut facilities in Norwalk and Bridgeport as "Closed or Retiring" and facilities in Montville and Middletown as "Generation at Risk". (D470B – Council Administrative Notice Item No. 45 – 2019 REO, p. 18). In addition, in late 2018, ISO-NE revoked the CSO previously awarded to the Clear River Energy Center in Burrillville, Rhode Island in FCA 10 for 550 MW, and Clear River did not

receive a CSO in FCA 13. (Tr. 4/4/19, p. 82). Therefore, KEC's capacity is needed to replace the capacity from retiring power plants or proposed plants that ISO-NE can no longer rely on for capacity.

3. KEC will help promote, not delay, integration of renewable resources.

Plants like KEC will not deter integration of renewables—in fact they are necessary to achieve greater levels of renewables. Wind and solar are intermittent resources, meaning their generation is variable in nature and not under direct control of the facility operator due to an outside factor (i.e., they are dependent on the wind blowing and sun shining). As such, they are not dispatchable and cannot change their output quickly to respond to changing demand, and they cannot always be depended upon given variable weather conditions.

With recent passage by several New England states of new renewable resource procurement targets and growth in distributed solar installations, the quantity of variable renewable resources added to the New England grid could vastly expand beyond previous expectations, increasing the need for flexible resources that can provide the ancillary resources needed to reliably manage the increase in intermittent generation. (D470B – NTE 1(b), pp. 22-25). KEC, with its quick start, 29 MW per minute ramp rate and other attributes, can economically provide the vast majority of flexible operational capabilities needed to integrate increasing quantities of variable renewable generation. (NTE 14, Response 78, pp. 6-7; D470B – NTE 1(b), pp. 3, 23-24; Tr. 4/18/19, pp. 30-31, 259).

4. KEC is a dual-fuel plant with a firm (non-interruptible) gas supply contract, providing exceptional winter reliability protection against tight natural gas conditions.

KEC will also not be constrained in its operation due to fuel supply, and thus can help ISO-NE address its concerns about winter reliability of the region's power supply. KEC is an essential part of the reliability solution for at least two reasons. First, KEC will have a firm gas

supply and transportation contract with Emera, meaning it will not rely on future expansions of the gas pipeline and will always have access to gas – even under the coldest winter conditions - unlike those New England generating facilities with interruptible gas service. NTE has a seven-year contract for year-round firm natural gas delivery for KEC with service commencing on the commercial operation date, scheduled for 2022. This firm gas contract has a provision for a seven-year extension to the initial term. Second, KEC will have dual-fuel capability, meaning that in the unlikely event of a gas curtailment affecting KEC (e.g., resulting from an unexpected loss of pipeline capacity), the plant can operate on ULSD to continue producing electricity.² (D470B – NTE 1(b), pp. 8-14; D470B – NTE 7 No. 43 I; Tr. 4/18/19, pp. 73-74, 218-220). The reliability and flexibility of KEC’s fuel supply means ISO-NE can rely on KEC to produce electricity even during the coldest periods.

5. KEC will make a substantial contribution to the reduction of greenhouse gases in Connecticut and New England.

KEC’s entry into the market will result in lower emissions, improving regional air quality, as KEC will displace older, less efficient and higher-emitting generating facilities. This reduction in emissions is driven by KEC’s higher operating efficiency. It will take less fuel to generate the same amount of electricity than nearly all the other fossil fuel-fired facilities in New England. D470B – NTE 1 (b). p. 4)

NTE has procured emissions reduction credits (“ERCs”) to offset the NO_x emissions from KEC. (Tr. 4/18/19, pp. 205-207). Since NTE purchased NO_x ERCs to offset emissions at a ratio of 1.2 to 1, the total regional NO_x emissions will decrease as a result of KEC. NTE has also voluntarily committed to eliminating its greenhouse gas emissions by 2050. (Tr. p. 1130; Tr.

² Importantly, constrained natural gas conditions typical of cold winter days will not interrupt the guaranteed delivery of natural gas to KEC. KEC’s dual-fuel capability thus provides an additional layer of protection even in the event of unexpected (and extremely rare) loss of regional natural gas delivery capability.

4/4/19, pp. 48-50; Tr. 4/18/19, pp. 51-53, 109-111). This will help Connecticut meet or exceed its carbon dioxide emissions reductions targets under the Connecticut Global Warming Solutions Act. (NTE 16, pp. 5-6).

B. NTE Has Been Diligent In Considering, And When Possible, Addressing Neighborhood and Municipal Concerns

1. NTE, received community input through the Environmental Justice (“EJ”) process and NTE’s community outreach plan.

NTE has engaged in a significant outreach effort to identify and address community and municipal concerns. This effort has included extensive discussions with various Town of Killingly officials, resulting in several community agreements and significant project changes to address these concerns. NTE, with the approval of DEEP, implemented an extensive EJ Plan as part of the initial application process. Although the Town of Killingly is no longer listed as a Distressed Municipality by the Connecticut Department of Economic and Community Development, NTE has continued to engage in community outreach efforts, including public information sessions, its monthly newsletter, and updates to the KEC project website. (2019 Motion to Reopen, p. 8, fn. 2; D470B – NTE 4, No. 1, p. 1 and Attachment 1).

2. NTE and the Town have come to an agreement on all of the Municipal Orders.

Under Docket No. 470, the Town of Killingly filed Municipal Regulate and Restrict Orders (“Municipal Orders”) in October 2016. On April 11, 2019, the Town of Killingly filed additional comments on the Municipal Orders in the reopened Docket No. 470B proceeding. (D470B – Town 1). The April 11, 2019 comments are based on the Town’s initial Municipal Orders, the modifications made by NTE to the KEC plans on October 27, 2016 in response to those initial Municipal Orders, and the more recent KEC plan modifications dated January 17, 2019. The Town’s April 11, 2019 comments were discussed during the evidentiary hearing on

April 18, 2019. (D470B – Town 1; Tr. 4/18/19 pp. 6-22). On April 24, 2019, representatives of NTE and the Town met to discuss and resolve ten (10) outstanding objections/appeals to the Municipal Orders. (D470B – Town 1; Tr. 5/2/19 pp. 64-70 and 91-107). NTE and the Town have reached complete agreement on all outstanding issues contained in the Municipal Orders and additional comments raised since. (Tr. 5/2/19, pp. 63-64).

3. NTE and the Town have negotiated and executed a CEBA and a Tax Stabilization Agreement, which include commitments that NTE will provide a decommissioning bond and establish a PVG agreement for neighbors of the project, all designed to address Town and neighborhood concerns and providing substantial benefits to the community.

On January 30, 2018 the Killingly Town Council approved and executed the CEBA and Tax Stabilization Agreement with NTE. (D470B – NTE 1(a), p. 4; D470B – NTE 7, No. 43, p. 2). The CEBA includes a financial component (in addition to revenue generated by the separate tax agreement) and a commitment to post a plant decommissioning bond. The CEBA also provides for improvements to Lake Road and the establishment of a conservation easement on the north portion of the Generating Facility Site. (D470B – NTE 7, No. 43, p. 2 and Attachment 1 H).

As required by the CEBA, NTE has developed and offered a PVG to residential neighbors within 2,500 feet of the KEC facility. The PVG provides for an initial payment to cover legal fees to negotiate the PVG itself, and then provides two options for those who sign the PVG. One option provides for a one-time payment if KEC is built. The second option provides a mechanism to address potential impacts to property value through the use of an appraisal to set a base property value, later compared to the sale price of the property if sold within seven (7) years of the PVG. As of May 2, 2019, NTE has signed agreements with six neighbors and is negotiating with at least eight other neighbors. (Tr. 4/4/19 at 44-48; Tr. 5/2/19 at 139-141).

C. KEC Will Not Have A Significant Adverse Impact On Public Health, Safety, The Environment Or Other Resources Of The State

Pursuant to Conn. Gen. Stat. § 16-50p(a)(3), the Council, before granting a Certificate, must determine the nature of potential environmental impacts and that the impacts are not sufficient to deny the Application. Set forth below is a discussion of the modifications to the KEC Facility, the various environmental factors to be considered pertaining to those changes, and why the impacts, if any, do not warrant denying the Application.

1. Natural environment and ecological balance.

The modified KEC facility has been designed, and will be constructed and operated, to have minimal impacts on the environment. NTE made certain grading adjustments to allow for the use of decreased slopes to replace the installation of a retaining wall, and maintained or increased the distance between the development footprint and on-site wetlands. There were no other changes to the design that would impact wetlands, and there was no evidence presented to the Council to the contrary. (D470B – NTE 1(c)).

2. Public health and safety.

NTE, through its expert F.A. Hesketh & Associates, Inc. (“F.A. Hesketh”), prepared an updated traffic impact report to evaluate traffic generated by KEC and its impacts on the adjacent roadway network. (D470B – NTE 1(c), p. 22 and Appendix E). F.A. Hesketh concluded that “the existing roadway network has sufficient excess capacity in order to accommodate the increased traffic volumes related to the construction activities related to the proposed development.” (D470B – NTE 1(c), App. E; Tr. 5/2/19 pp. 80-87). There has been no evidence presented to the Council to refute this conclusion.

Similarly, NTE, through its expert Tetra Tech, Inc. (“Tetra Tech”), prepared an updated Sound Survey and Analysis Report. (D470B – NTE 1(c), pp. 18-20 and Appendix D). Tetra

Tetra Tech evaluated potential levels of noise emissions from KEC and compared them to levels set forth in the State of Connecticut and Town of Killingly noise regulations. Tetra Tech used noise modeling techniques to calculate anticipated noise levels at various surrounding locations resulting from normal KEC operations. (D470B – NTE 1(c), pp. 18-20). Tetra Tech also identified a number of measures that NTE incorporated into the modified layout and design of KEC to attenuate noise levels to meet the State of Connecticut and Town of Killingly noise regulations and minimize impact on surrounding receptors. These measures include incorporating a silencer system in the HRSG exhaust stack and gas turbine air inlet filter, acoustical mitigation measures and an acoustical shroud in the HRSG inlet, a low noise design for the air cooled condenser and cooling water fin-fan tower, acoustical lagging in the duct burner and fuel gas piping, an enhanced enclosure for the fuel gas compressor, enclosures of certain large components, and noise barriers where necessary. (D470B – NTE 1(c), pp. 12-20 and Appendix D). The updated KEC design, to be finalized by the Engineering, Procurement and Construction contractor, will continue to meet state and local noise standards. (D470B – NTE 1(c), p. 20; Tr. 5/2/19 p. 70).

3. Air and water purity.

a. Air

On June 30, 2017 DEEP issued Permit Number 089-0107 for KEC. When NTE initially changed to the Mitsubishi J Series combustion turbine generator, NTE applied for a minor permit modification, which was issued by DEEP on March 16, 2018. In July 2018, NTE filed for a second minor permit modification to incorporate certain technical changes to the Mitsubishi combustion generator and the proposed facility, which provided for an increase in the facility's nominal output from 550 MW to 650 MW. DEEP issued the final modified permit to construct and operate the 650 MW Mitsubishi combustion turbine generator on December 10, 2018.

(D470B – NTE 1(c), pp. 16-18, and Appendix A; D470B – NTE 1(a), p. 3). The use of the Mitsubishi unit results in improvement in KEC’s emissions profile and a reduction in ambient air impact concentrations. (D470B – NTE 1(c), p. 5). The Mitsubishi unit allows an increase in nominal output to 650 MW while reducing annual emissions of particulate matter and carbon monoxide, with no increase from KEC’s original air permit in annual nitrogen oxide emissions. (D470B – NTE 1(c), p. 5). NTE, through Tetra Tech, performed updated air dispersion modeling to simulate worst-case conditions to predict concentrations for each pollutant. This modeling continues to show compliance with National Ambient Air Quality Standards and Prevention of Significant Deterioration increments. (D470B – NTE 1 (c), pp. 9-18). There was no evidence presented to the Council to refute these conclusions.

b. Water.

(1) Water supply.

NTE has eliminated any uncertainty associated with its water supply. KEC will use water provided by CWC. (NTE 1, App. H-1; NTE 28). CWC received a water diversion permit dated March 15, 2018 for diversion of up to 540,000 gallons per day (“GPD”) from its Plainfield and Crystal Water Company systems. (DEEP Comment Letter dated April 1, 2019). NTE has entered into a Water Supply Agreement with CWC dated October 31, 2017 for the use of up to 400,000 GPD. (D470B – NTE 7, No. 1 E and Attachment 1 E). NTE has also entered into two separate Construction Agreements with CWC in which NTE has committed to pay all costs associated with installation of the water line to connect KEC to the CWC system and the interconnection between CWC’s Plainfield and Crystal Water Company systems. (D470B – NTE 7, No. 43 E, Tr. 5/2/19, pp. 135-136).

The State of Connecticut Department of Public Health, Drinking Water Section confirmed that, with the interconnection between the Plainfield and Crystal Water Company

systems, CWC will have an adequate margin of safety to supply the needs of KEC. (Department of Public Health, Drinking Water Section Comments dated March 14, 2019). There was no evidence presented to the Council to refute these conclusions.

(2) Wastewater.

KEC will generate approximately 35,000-56,000 gallons of wastewater per day under gas-fired operations (with evaporative cooling), to be discharged to the Killingly sewer system and wastewater treatment plant, operated by Suez. (D470B – NTE 4, No. 32, p. 15 and Attachment 3; Tr. 4/18/19, pp. 87-88). NTE’s discharge rate will be approximately 33,000 gallons per day when burning ULSD. (D470B – NTE 4, No. 32, p. 15 and Attachment 3). Suez has confirmed that the Killingly wastewater collection system has sufficient capacity to handle anticipated wastewater discharges from KEC. (NTE 1, App. H-2). KEC will be required to secure an approval for the interconnection to the sewage system and obtain, and comply with the terms of, any necessary discharge permits from DEEP. (NTE 1, App. H-2).

4. Agricultural Uses.

The site is not currently in productive agricultural use. The only portion of the KEC Facility that overlaps with approximately 0.5 acres of mapped agricultural soils is a portion of the stormwater management system. The soils in this area are not typical of the Ninigret-Tisbury soil complex, but rather are characterized by a thin sandy outwash deposit over a till deposit. (D470B – NTE 7, Nos. 44 and 45, pp. 3-4 and Attachment 2). Therefore, there are no impacts to agricultural uses, and there is no evidence in the record to the contrary. Also, there is no part of the site that is part of the Public Act 490 Program. (D470B – NTE 7, No. 46, p. 4).

D. The Application Should Be Approved Because The Benefits Of The Proposed Plant Outweigh Any Potential Impacts


As discussed above and in prior submissions, the benefits of KEC are substantial and the

potential impacts on public health, safety and the environment are minimal. Given that the benefits outweigh the impacts, the Council should grant the Certificate.

VI. CONCLUSION

For all the foregoing reasons, the Council should approve the Application and issue NTE a Certificate of Environmental Compatibility and Public Need for the proposed KEC Facility.

Respectfully submitted,
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CERTIFICATION OF SERVICE


I hereby certify that on this 30th day of May, 2019, a copy of the foregoing was sent via electronic mail, to the following:

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