

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

Re:

**The United Illuminating Company Application
For a Certificate of Environmental Compatibility
and Public Need for the Construction, Maintenance
and Operation of a Proposed 115 kV/13 kV Electric
Substation and Associated Facilities Located
at 3-7 Wildflower Lane, Trumbull, Connecticut**

Docket No. 317

January 4, 2007

**POST HEARING BRIEF OF THE TOWN OF TRUMBULL
AND THE WILDFLOWER COALITION**

The Town of Trumbull ("Trumbull" or the "Town") and the Wildflower Coalition ("Coalition") submit this joint brief articulating their collective position regarding the facility proposed above by the United Illuminating Company ("Applicant" or "UI"). For the reasons set forth in this brief, the Town and Coalition urge the Siting Council to deny the proposed facility at the Wildflower Lane site in order to protect the homes in this exclusively residential area from the enormous impact of a transmission substation, and to avoid the future and unquantifiable impacts that would result from the anticipated expansion of this facility. If the Siting Council makes a determination that a facility is necessary, the Town and Coalition request that such facility be located at the Quarry Road site, which has been determined to be a location that is constructible, technically feasible, and presents significantly fewer environmental impacts than the Wildflower Lane site.

I. A Certificate Cannot Issue for a Substation at the Wildflower Lane Site and be Consistent with the Standards Set Forth in PUESA

- A. PUESA Requires the Balancing of the Substation Benefit against the Harm that Will Result to the Environment

The Connecticut legislature enacted the Public Utility Environmental Standards Act ("PUESA"), Conn. Gen. Stat. §§ 16-50g et seq., to ensure that the public need for certain electric infrastructure facilities, is balanced against the need to protect the natural environment. The requirement for that balancing appears at the very beginning of PUESA, in Conn. Gen. Stat. § 16-50g:

The purposes of this chapter are: To provide for the balancing of the need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state and to minimize damage to scenic, historic, and recreational values; to provide environmental quality standards and criteria for the location, design, construction and operation of facilities for the furnishing of public utility services at least as stringent as the federal environmental quality standards and criteria, and technically sufficient to assure the welfare and protection of the people of the state. . . .

With respect to PUESA's requirements for substation facilities, Conn. Gen. Stat. § 16-50(a)(1)(A)(v) includes in those requirements "a description of the effect of the proposed . . . substation . . . on the environment, ecology, and scenic, historic and recreational values. . . ." Finally, Conn. Gen. Stat. § 16-50p contains the Council's standards and conditions for the granting of a Certificate for a substation. The Council cannot grant a Certificate unless it first finds and determines:

[t]he 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, 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. . . .

Conn. Gen. Stat. § 16-50p(a)(3)(B).

Thus, PUESA sets out specific requirements concerning the effects of a substation on the environment which includes both the information to be provided, and the mandatory analysis balancing the need for the facility against those effects. Therefore, in order to properly and fully conduct this analysis, the Council must weigh both the need and the effects of the proposed substation if it is to be located at the Wildflower Lane Site. These requirements must be followed if the Council is to achieve the Legislature's goals set out in the preamble to PUESA. See, Conn. Gen. Stat. § 16-50g, supra.

B. Considering Whether A Need Exists for the Substation at the Wildflower Lane Site

The first question to consider is how "need" should be defined in the context of this docket. It became clear during the course of the proceeding, that the benefits, technical requirements and financial implications of distribution and transmission¹ are very different. As a result, and in light of the significant consequences that each could impart on the decision in this proceeding, it is imperative that the need for each be considered separately and on its own merits.

1. Distribution (and Transmission Interconnection) Need

The Site Selection Study prepared by the Applicant identified and evaluated possible substation sites in the Trumbull area. The geographical criteria used were distribution system access and associated cost, and "transmission interconnection"² and associated cost. App. Vol. 2, Ex. D. There is no indication in the Site Selection Study that the sites considered were evaluated using the criteria necessary for a transmission

¹ For the purposes of this brief, "transmission" shall refer to the "increased sectionalizing of the transmission system". 10.26 Tr. p. 210- 217.

² "Transmission interconnection" shall refer to the connection between transmission (supra) and distribution. Id.

station. In fact, the Applicant concedes that "... in order to build an equivalent transmission reliability solution requires more than an acre." 12.5 Tr. p. 110. However, several of the sites considered in the Site Selection Study were only an acre. Id. at 109. Clearly, the focus on locating and identifying the environmental implications of sites in this study was limited solely to sites considered for distribution and transmission interconnection purposes, not the other required factors. "The site selection study was conducted on the basis of solving the distribution capacity issue only." Id. at 110.

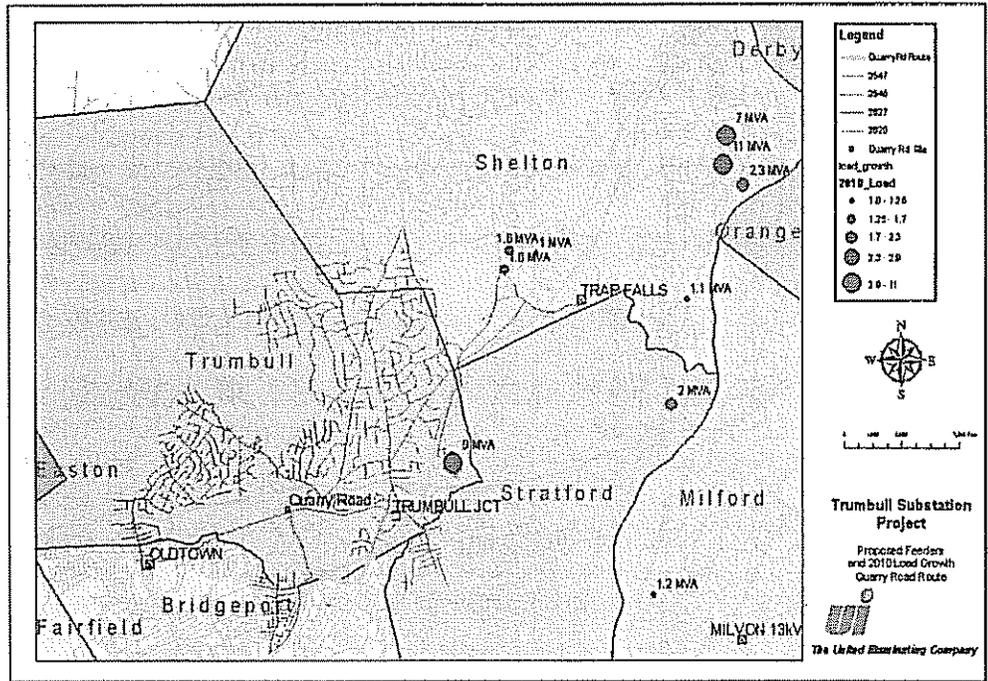
The proposed site for this project was evaluated with the goal of addressing distribution needs, and evidence was provided as to the benefits of advanced improvements and interconnections in this area of the electrical grid. In stark contrast, transmission was packaged with the distribution and transmission interconnection as a "benefit" possible if the substation was constructed at the Wildflower Lane site.

2. Transmission Need

Even if it is generally assumed that additional transmission is needed in Connecticut, the Council must consider how, where and under what circumstances such transmission should be sited. The transmission and distribution projects were coupled in Docket 317, but as is evident from the testimony, the transmission aspect is severable. A PUESA analysis must be conducted, nonetheless, and the transmission need must be balanced against the impact to the environment

The results of that inquiry will reveal that while a need for transmission may exist generally, the evidence does not quantify or establish the need for the transmission in this specific location at this present time, justifying the enormous and irreparable impact that will result if it is located at the Wildflower Lane site.

The October 30, 2006 Prefiled Testimony of Richard Reed contained Figure 4, reproduced below, that depicts the projected 2010 load growth in the greater Trumbull region.



The anticipated 2010 load growth in the Trumbull area shown will be 9 MVA. (The Applicant cites this as a "greater than 50 percent probability of occurring" 12.5 Tr. p 116). The testimony also addressed the location of the potential load growth north and east of the substation. As is evident from Figure 4, the area north and east of the substation is the area identified as the Trap Falls area. Anticipated future load growth in this area is approximately 27.7 MVA. When asked whether the Trap Falls substation shouldn't be expanded instead in order to accommodate the greatest amount of future load growth in the immediate geographical area of that growth, the Applicant testified that it is "currently studying the need for a substation in the Trap Falls region, actually northeast of Trap Falls." *Id.* at 119.

The Applicant's witnesses testified several times that UI is in the midst of preparing a ten-year transmission plan. 12.5 Tr. p 70. One of the precipitating factors of the ten-year transmission plan cited by the Applicant was high load growth experienced over the summer. The Applicant indicates that it expects to file the ten-year transmission plan in April, 2007. Id. at 71.

The factual support for this specific transmission solution is insufficient. Other solutions should be considered and analyzed as part of any proposal for a transmission solution, for example, if a significant load growth is expected in the area between Trap Falls and Trumbull Junction -- but, as in this case, in much closer proximity to Trap Falls -- an analysis should be conducted as to the system's performance: (i) if upgrades are made to Trap Falls; (ii) if a substation is added northeast of Trap Falls (as suggested by the Applicant's witness); (iii) if capacity is offloaded by the additional distribution interconnections, etc. An analysis this thorough has not been performed, and certainly cannot be conducted until all of the information from the upcoming transmission ten-year plan has been filed and reviewed.

If located at the Wildflower Lane site, this project will impact several generations of Trumbull residents and the very character of the Town. It is both administratively unsound and contrary to the intent of PUESA to make a determination as to need when a report of such significance and long range planning is within four months of being published and alternatives that would have a direct affect on need have not been vetted.

C. A Substation at the Wildflower Lane Site Will Result in Irreparable Harm to this Residential Environment

The Wildflower Lane site is located in the center of an exclusively residential neighborhood in a wooded area of Trumbull. The impact that this substation will have on the residents of this area and the rest of Trumbull is inestimable.

1. Visual Impact

If the substation is constructed at the Wildflower Lane site, the visual impact will be significant to the residents of Stella Street. Most of the residential receptors will have views of the large and unsightly substation infrastructure, or if required by the Siting Council, the same infrastructure with visual mitigation implemented.³ Further, the residents whose properties abut the proposed substation property will literally have the substation in their backyard.

2. Inappropriate Siting of Substation at Wildflower Lane

The Wildflower Lane site is located in a residential zone. The area around the proposed substation – Wildflower Lane and Stella Street – is wholly residential and the remainder is open space. 12.5 Tr. 168. It is comprised primarily of single-family homes and includes a large number of families with young children.

Information provided by the Applicant misleads one to believe that locating a substation in a residential area similar to the Wildflower Lane neighborhood is not at all unusual, and in fact has been done many times by UI. 10.26 Tr. p. 181. UI disclosed the locations of each of their nineteen substations they self-identified as being in residential or residential/transitional areas.⁴ A visit to each location, photo documentation, and witness corroboration revealed that only one of the listed

³ As indicated in the Coalition's Exhibit 1, the order of preference for visual mitigation methods is i) barn with concrete panel fence (sic) architectural wall; ii) barn with chain link; iii) gas insulated substation w/ concrete panel fence; and iv) open air substation w/ concrete panel fence. Similarly, the Town's preference would be a barn with an architectural wall. 12.5 Tr. p. 71.

⁴ UI 11.30.06 response to WCP No. 7.

substations was located in a neighborhood of similar character to that of the Wildflower Lane site.⁵ The rest of the listed substations are located in areas near or adjacent to at least one (and sometimes more) of the following: commercial or industrial area, high traffic area, apartment building, fast food restaurant, funeral home, highway, factory-type buildings and airport. 12.5 Tr. 135-150, Coalition Ex. 4.

First Selectman Baldwin visited two of the substation sites that were identified by UI in response to WCP No. 7 as similar to Wildflower in density – Old Town Bulk Substation in Bridgeport (Kaechle Place) and Trap Falls Bulk Substation in Shelton (Armstrong Hill). He stated that “with the one exception that there may be residents around there, the character of these neighborhoods are not even close to being what’s considered . . .” 12.5 Tr. p. 168.

An inquiry was later made as to whether other public utility companies maintained substations in residential areas. The Town and Coalition would suggest that without knowing the particular facts of that utility siting, it is impossible to glean any information useful to siting the facility proposed in this Docket. The Town and Coalition would further suggest that it is not sound policy to make present decisions based upon whether a particular practice was followed in the past, particularly when there is another viable option that would locate utility infrastructure in an industrial non-residential area.

3. Protecting the Public Proactively

P.A. 04-246, a 2004 amendment to PUESA set forth the legislative conclusion that high voltage overhead transmission lines present a significant public health concern. To be clear, Docket No. 317 does not contemplate the installation of new high

⁵ The Hawthorn Bulk Substation was located in a primarily residential area, sharing the driveway with a resident, but also had GE nearby.

voltage overhead transmission lines. It does, however, have import in this proceeding, if for no other reason, than to highlight the very reasons that this substation should not be located in this residential area.

It is unassailable that the purpose of P.A. 04-246 was to protect the health and safety of residents of the State of Connecticut from that of EMF created by high energy overhead transmission lines and, most particularly, to protect the children of the State of Connecticut from the potential for an increased risk of childhood leukemia from exposure to EMF. Residential areas such as the Wildflower Lane neighborhood represent such sensitive areas specifically protected by this legislation. While the legislation is not directly applicable to the project proposed in Docket 317, it is certainly relevant to the future of the proposed substation and the information contained in this record.

UI considers the Wildflower Lane site an important utility junction, and the record is clear that that if a substation were constructed at this location it would be expanded at some point in the future and additional line(s) brought in.⁶ 12.5 Tr. p. 100, 121, 177-78. If the Siting Council approves this utility infrastructure in the middle of this residential neighborhood it will almost certainly have to deal with the issues of EMF exposure in this legislatively protected area at some point in the future as the substation is expanded and upgraded. As the substation is able to handle additional loading, lines are upgraded and the site is expanded, this will remain an issue, particularly given the number of children in this area - there are twenty-four children living on Stella Street,

⁶ In fact, First Selectman Baldwin has testified that during a meeting in which he, Attorney Schopick and several UI representatives were present, he was told by Mr. Reed that the "transmission station" was going to "dwarf" the substation facility 12 5 Tr. 178

and approximately seventy-five children that play in this neighborhood. Coalition Ex. 1, Q. 8.

One of the Council's most important functions is the appropriate siting of public utility infrastructure to provide Connecticut residents with the utility service that is so important in our daily personal and professional lives. The Council has the unique opportunity in this Docket to protect a residential neighborhood and the families who reside there, and locate the substation in the Trumbull Junction on a denuded industrial parcel that already supports transmission structures and allows for future expansion.

II. The Quarry Road Site is the Best Location for Utility Infrastructure

If the Council concludes that the proposed distribution and transmission interconnection solution is necessary, the Town and Coalition are adamant that Quarry Road site is the best location at which this project can be sited.

The Quarry Road site is in an industrial zone. It is surrounded by Route 25, a commercial building and undeveloped space on the other two sides. 12.5 Tr. p. 30. The property is at the end of a cul-de-sac, currently undeveloped but encumbered by a line of electric transmission structures. There are no wetlands on the property, no residences within 900 feet, and no access issues. The Town made it clear that this site is the best location for the Town, and the one the Town supports. 12.5 Tr. p 171. This is the location in which utility infrastructure should be sited and can be progressively expanded in the future.

The record reflects several things about the distribution solution⁷ if located at Quarry Road site:

⁷ See the Town and Coalition's position that the transmission need has not been demonstrated so as to justify the impacts to the Wildflower Lane residential neighborhood and the Town. supra

- The substation can be constructed at the Quarry Road site and provide the distribution benefits sought by the Applicant. 12.5 Tr. p. 115.
- The maintenance would be comparable to that of a substation at Wildflower Lane site. 10.26 Tr. p 189.
- The distribution line losses “would not really be significant.” Id. at 190
- Reliability would not be affected significantly “But a significant number on reliability? I wouldn’t say so.” Id.
- The offload of capacity from the Old Town and Trap Falls substations by the Quarry Road site would create more capacity in the Old Town/Trap Falls region. 12.5 Tr. p. 115, 116.
- The overall cost is higher than that of the Wildflower Lane site, however:
 - The price of the Quarry Road site acquisition has yet to be determined;
 - The substation at the Quarry Road site will not require visual and noise mitigation and the expenses associated with such mitigation;
 - the substation at the Quarry Road site would not require an easement from the DOT from Nichols Ave and the costs associated with that, including the access road improvements (if so ordered by the Siting Council)

During the course of the proceedings it was clear that the Applicant genuinely sought to improve the utility infrastructure in this area in a thorough manner. Sprinkled throughout the testimony of the Applicant’s witnesses was the characterization of the Quarry Road site (although admittedly feasible and constructible) as not “optimally located” or “slight reliability difference.” 12.5 Tr. p. 118. It is at this point that the PUESA analysis of needs vs. effects should result in a siting decision that sites the substation in a location that may not be optimal (but is feasible), saves a residential neighborhood, and still leaves the utility infrastructure in the same town.

III. Conclusion

If the Council approves a substation at the Wildflower Lane site it will impact these neighborhoods and the Town of Trumbull for generations to come. While Wildflower Lane site might be a technically good location, even an "optimal" location at which to site a distribution and transmission substation that is not the only consideration; the decision cannot be made in "need" vacuum. Siting a substation at the Wildflower Lane site would be inconsistent with the legislative intent codified in PUESA, and would result in extensive damage to the visual, scenic and neighborhood environment of Wildflower Lane and the Town. Further, the amendments to PUESA that sought to protect "sensitive areas" from high voltage transmission lines changed the way the Council must look at any electric infrastructure application that may (or is likely) to include transmission lines in future expansion plans. If there is an opportunity to initially site such a facility away from a protected area, it is a persuasive reason to site it in a non-sensitive area if available and technically feasible.

The record supports the conclusion that the Quarry Road site is such a technically feasible, constructible location. Given the impending ten-year transmission planning report and impact that the distribution and transmission interconnection may have on the need for capacity in this area, the transmission aspect of the project should be denied and the Applicant can revisit it at some point in the future if it so wishes. If the transmission piece was so integral to this application it is difficult to believe that the report would not have been expedited (at least the relevant portions), so that the Siting Council and the parties to this proceeding would have it in hand (and in the record) instead of releasing it a month after the decision was made on the transmission

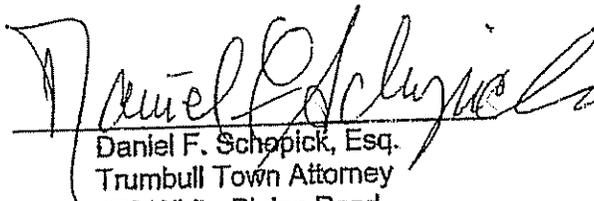
substation. Quarry Road is the site that Trumbull has identified as the location it supports for such utility infrastructure development, including future expansion. It has coordinated contact with the owner of the property David D'Addario regarding interest in the sale.

There are numerous Trumbull residents that will be irreparably impacted by this decision if the substation is sited on Wildflower Lane. The Town and the Coalition respectfully request that the Siting Council make a decision that balances technical need with the needs of the community and its residents.

By:



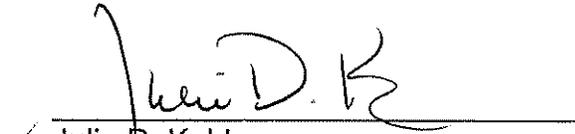
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Certification

This is to certify that a copy of the foregoing has been sent via email, this date to all parties and intervenors of record.


Julie D. Kohler