

March 4, 2016

VIA E-MAIL AND FEDERAL EXPRESS

Attorney Melanie Bachman
Acting Executive Director
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: **DOCKET NO. 461** - 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.

Dear Attorney Bachman:

In connection with the above-referenced Docket No. 461, enclosed please find an original plus fifteen (15) copies of the following documents:

1. Objection to Intervenor's Request for Administrative Notice; and
2. Objection to Intervenor's List of Items for Administrative Notice.

Very truly yours,


Marianne Barbino Dubuque

MBD/mkw
Enclosures

cc: Service List dated February 1, 2016 attached (with enclosures)

{W2658543}

**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 jacqueline.gardell@eversource.com</p> <p>John Morissette Project Manager-Transmission Siting-CT Eversource Energy 56 Prospect Street Hartford, CT 06103 john.morissette@eversource.com</p> <p>Jeffery Cochran, Esq. Senior Counsel, Legal Department Eversource Energy 107 Selden Street Berlin, CT 06037 jeffery.cochran@eversource.com</p> <p>Marianne Barbino Dubuque Carmody Torrance Sandak & Hennessey LLP 50 Leavenworth Street Waterbury, CT 06702 mdubuque@carmodylaw.com</p>
Party Approved on July 23, 2015	<input checked="" type="checkbox"/> E-Mail	Office of Consumer Counsel	<p>Lauren Henault Bidra, Esq. Staff Attorney Office of Consumer Counsel Ten Franklin Square New Britain, CT 06051 Lauren.bidra@ct.gov</p> <p>Joseph A. Rosenthal, Esq. Principal Attorney Office of Consumer Counsel Ten Franklin Square New Britain, CT 06051 Joseph.rosenthal@ct.gov</p>

			Margaret Bain Associate Rate Specialist Office of Consumer Counsel Ten Franklin Square New Britain, CT 06051 Margaret.bain@ct.gov
Intervenor Approved on September 1, 2015	<input checked="" type="checkbox"/> E-Mail	Parker Stacy 1 Kinsman Lane Greenwich, CT 06830 pstacy@optonline.net	
Intervenor Approved on September 1, 2015	<input checked="" type="checkbox"/> E-Mail	Pet Pantry Super Discount Stores LLC	Mark L. Bergamo, Esq. Edward L. Marcus, Esq. The Marcus Law Firm 275 Branford Road North Branford, CT 06471 mbergamo@marcuslawfirm.com emarcus@marcuslawfirm.com
Intervenor Approved on September 1, 2015	<input checked="" type="checkbox"/> E-Mail	Field Point Estate Townhouses, Inc.	Carissa Depetris Dwight Ueda Field Point Estate Townhouses 172 Field Point Road, #10 Greenwich, CT 06830 carissa.depetris@gmail.com d_ueda@yahoo.com
Intervenor Approved on September 1, 2015	<input checked="" type="checkbox"/> E-Mail	Christine Edwards 111 Bible Street Cos Cob, CT 06807 SeeEdwards@aol.com	
Intervenor Approved on September 1, 2015	<input checked="" type="checkbox"/> E-Mail	Richard Granoff, AIA, LEED AP Granoff Architects 30 West Putnam Avenue Greenwich, CT 06830 rg@granoffarchitects.com	

Intervenor Approved on September 1, 2015	<input checked="" type="checkbox"/> E-Mail	Anthony Crudele Bella Nonna Restaurant & Pizzeria 280 Railroad Avenue Greenwich, CT 06830 bellanonnagreenwich@gmail.com	
Intervenor Approved on September 1, 2015	<input checked="" type="checkbox"/> E-Mail	Cecilia H. Morgan 3 Kinsman Lane Greenwich, CT 06830 cecimorgan@aol.com	
Intervenor Approved on September 1, 2015	<input checked="" type="checkbox"/> E-Mail	Dr. Danielle Luzzo Greenwich Chiropractic & Nutrition 282 Railroad Avenue Greenwich, CT 06830 drdanielleluzzo@gmail.com	
Intervenor Approved on September 17, 2015	<input checked="" type="checkbox"/> E-Mail	Joel Paul Berger 4208 Bell Boulevard Flushing, NY 11361 communityrealty@msn.com	
Intervenor Approved on October 1, 2015	<input checked="" type="checkbox"/> E-Mail	Meg Glass 9 Bolling Place Greenwich, CT 06830 glass50@hotmail.com	
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 ptesei@greenwichct.org	Julie D. Kohler, Esq. David A. Ball, Esq. Cohen and Wolf, P.C. P.O. Box 1821 Bridgeport, CT 06601 jkohler@cohenandwolf.com dball@cohenandwolf.com

STATE OF CONNECTICUT

SITING COUNCIL

DOCKET NO. 461 – EVERSOURCE ENERGY : **DOCKET NO. 461**
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 : **MARCH 4, 2016**

OBJECTION TO INTERVENOR’S REQUEST
FOR ADMINISTRATIVE NOTICE

For the reasons set forth below, The Connecticut Light and Power Company, doing business as Eversource Energy (“Eversource”), hereby objects to Intervenor Field Point Estate Townhouses’ March 1, 2016 Motion for Administrative Notice seeking administrative notice of newly submitted evidence.

The basis for this Objection is as follows:

1. Intervenor’s Motion was filed two weeks after the Council’s posted deadline for submission of evidence;
2. The doctrine of administrative notice does not apply to the materials submitted by Intervenor; and

3. Intervenor's submission of this material, shortly before the sixth hearing on this matter, constitutes disregard for the Council's orderly administrative process.

DISCUSSION

1. The deadline for pre-filings with the Council was February 16, 2016.

On January 13, 2016, the Council sent a memorandum via electronic mail to all parties and intervenors, requesting that they "submit responses to interrogatories and late-filed exhibits on or before the close of business on February 16, 2016." The memorandum states clearly that "[t]his is the final deadline for submission of additional exhibits."

An additional memorandum was sent by the Council via electronic mail to all parties and intervenors on February 24, 2016, with information on the conclusion of evidentiary hearings set for March 10, 2016. Only the Office of Consumer Counsel (OCC) was granted permission to submit exhibits to all parties and intervenors until March 1, 2016.

Because Intervenor failed to file its Motion for Administrative Notice by the February 16, 2016 deadline, the Council should deny its request.

2. The doctrine of administrative notice does not apply to the materials submitted by Intervenor.

Section 4-178(6) of Connecticut's Uniform Administrative Procedure Act states that "notice may be taken of judicially cognizable facts and of generally recognized technical or scientific facts within the agency's specialized knowledge." The doctrine of judicial notice applies equally to administrative agencies in the form of administrative

notice. *Town of West Hartford v. Freedom of Information Com'n*, 218 Conn. 256 (1991). Such notice is typically taken of matters “which come to knowledge of men generally in course of ordinary experience or life,” or are generally accepted as true and “capable of unquestionable demonstration.” *Id.*

The submitted materials include photographs purportedly taken by Mr. Dwight Ueda, on behalf of the Intervenor, with inexact estimates of distance from various points, along with a Google map that is marked to show the approximate location of Mr. Ueda at the time the photographs were taken. Although it appears that Mr. Ueda used a zoom lens when taking the photographs, no mention is made of the photographic process itself. Neither the zoomed-in photographs nor Mr. Ueda’s estimated distances are “capable of unquestionable demonstration.” Thus, it would be unduly prejudicial to Eversource if it were denied the opportunity to conduct cross-examinations for full disclosure of the facts surrounding the preparation of the photographs and map submitted by Intervenor.

Because Intervenor’s submitted materials are more properly categorized as evidence, subject to cross-examination by the Council and other interested parties in this proceeding, it is improper to request that the Council take administrative notice of the materials. To do so would circumvent the deadlines imposed by the Council for submission of all exhibits and infringe upon the procedural due process rights of the parties.

3. Intervenor’s motion was filed in disregard of the Council’s orderly administrative process.

According to Intervenor’s motion, the photographs submitted for administrative notice were taken on June 18, 2015; therefore, they have been readily available for

submission to the Council since the beginning of this administrative proceeding. Its decision to file a motion for administrative notice of new information after the filing deadline and less than two weeks before the sixth evidentiary hearing is an inexcusable attempt to skirt the Council's orderly administrative process. Because Intervenor could have submitted its evidence well before the Council's imposed deadlines, its Motion for Administrative Notice should be denied.

For the reasons set forth above, Eversource objects to Intervenor's Motion for Administrative Notice of its prepared map and three photographs.

Respectfully submitted,

THE CONNECTICUT LIGHT AND POWER COMPANY
DOING BUSINESS AS EVERSOURCE ENERGY

By: 
Marianne Barbino Dubuque
Carmody Torrance Sandak & Hennessey LLP
Its Attorneys
50 Leavenworth Street
Waterbury, CT 06702
(203) 573-1200