

Wiggin and Dana LLP
One Century Tower
P.O. Box 1832
New Haven, Connecticut
06508-1832
www.wiggin.com

Linda L. Randell
203.498.4322
203.782.2889 fax
lrاندell@wiggin.com

WIGGIN AND DANA VIA MESSENGER

Counsellors at Law

September 21, 2006

Daniel Caruso, Esq.
Chairman
Connecticut Siting Council
Ten Franklin Square
New Britain, CT 06051

Re: **Petition 784** - Petition of Plainfield Renewable Energy LLC for a Declaratory Ruling that No Certificate of Environmental Compatibility and Public Need Is Required for the Construction, Maintenance, and Operation of a 37.5 MW Wood Biomass Staged Gasification Generating Project in Plainfield, Connecticut

Dear Mr. Caruso:

During the September 14, 2006 meeting of the Connecticut Siting Council (the "Council"), the Council questioned the basis for the August 14, 2006 petition for declaratory ruling that no certificate of environmental compatibility and public need is required for the Plainfield Renewable Energy, LLC ("Plainfield"). To assist the Council, I have provided citation and discussion of the statutory basis for the Council's consideration of the siting of this generating plant as a petition rather than through an application for a certificate. In addition, I have been informed that a question was raised at the Council's meeting about an Office of Policy and Management ("OPM") investigation of Round 1 of the "Project 100" implementation process. That investigation has no connection or bearing on the Plainfield facility, which was not a bidder in Round 1.

Basis for Consideration of the Plainfield Plan Pursuant to a Petition

Public Act 05-01 (June Special Session), *An Act Concerning Energy Independence* (the "Energy Independence Act"), amended Conn. Gen. Stat. §16-50k to provide explicitly for the siting consideration of small generators such as Plainfield through a petition process rather than a certificate proceeding.

The Energy Independence Act was intended to facilitate the development of additional generation in the state. Section 18 of the Act amended Conn. Gen. Stat. §16-50k to add "grid-side distributed resources" up to 65 MW in size to the types of

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generators that expressly may be sited by declaratory ruling. Conn. Gen. Stat. §16-50k now provides:

[T]he council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling... (2) the construction or location of any fuel cell, unless the council finds a substantial adverse environmental effect, or of any customer-side distributed resources project or facility *or grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, so long as such project meets air quality standards of the Department of Environmental Protection.* (emphasis added)

“Grid-side distributed resources” is defined in § 1 of the Act (and codified at Conn. Gen. Stat. § 16-1(a)(43)) as “the generation of electricity from a unit with a rating of not more than sixty-five megawatts that is connected to the transmission or distribution system, which units may include, but are not limited to, units used primarily to generate electricity to meet peak demand.”

The Plainfield plant meets each element of the Conn. Gen. Stat. § 16-50k statutory requirement for consideration and approval by petition for declaratory ruling: It is a grid-side distributed resource, less than 65 MW, and connected to the transmission system. The plant will meet air quality standards of the Department of Environmental Protection, and will not have a substantial adverse environmental effect. Accordingly, it is appropriate for the Council to consider the Plainfield petition for declaratory ruling under the procedures established for such filings.

OPM Investigation

In July 2006, Governor Rell directed OPM to conduct a review of the management practices of the Connecticut Clean Energy Fund (“CCEF”), including the Project 100 process and the procedures used in conducting Request for Proposals. The Project 100 initiative is designed to facilitate the development of 100 MW of Class I renewable source generation by requiring the state’s electric distribution companies to enter into long-term power purchase contracts. The OPM investigation is not targeted at or related to the Plainfield project. I have attached a copy of the preliminary findings released by OPM on September 15, 2006. As you will see, the findings do not relate to Plainfield.

If you, other Council members or the Council’s staff have any further questions regarding these matters, please call me. In addition, I would be pleased to meet with the Council’s staff or with Assistant Attorney General Marconi if there is any question as to the appropriateness of the Council proceeding to consider the Plainfield petition for declaratory ruling on the schedule considered by the Council at its September 14, 2006 meeting.

Chairman Caruso
September 21, 2006
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Very truly yours,

A handwritten signature in black ink, appearing to read "L L Randell". The signature is fluid and cursive, with the first and last names being more prominent.

Linda L. Randell

Enclosure

cc: AAG Robert Marconi

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To	From
Co/Dept	Co.
Phone #	Phone #
Fax #	Fax #



STATE OF CONNECTICUT
Office of Policy and Management

FOR IMMEDIATE RELEASE:
September 15, 2006

CONTACT:
Susan Hamilton
(860) 418-6362
susan.hamilton@po.state.ct.us

THE OFFICE OF POLICY AND MANAGEMENT RELEASES PRELIMINARY FINDINGS CONCERNING THE REVIEW OF THE CONNECTICUT CLEAN ENERGY FUND AND THE PROJECT 100 PROCUREMENT PROCESS

In response to Governor M. Jodi Rell's directive earlier this summer, the Office of Policy and Management (OPM) has completed a review of the Project 100 procurement process conducted by the Connecticut Clean Energy Fund (CCFE), the Department of Public Utility Control (DPUC) and the utility companies. The Project 100 initiative is aimed at procuring 100 megawatts of long-term power purchase contracts with Class 1 renewable energy source projects by July 2008. Following questions raised by various stakeholders, the Governor requested the review in order to ensure that the selection process for these contracts was open, fair and competitive based on the merits and value of the proposals.

While OPM's review found no evidence of any intent to circumvent an open, competitive bidding process, their findings do reveal several flaws in this procurement process that created unnecessary delays in moving these projects forward. These flaws included an initial failure to provide prospective bidders with required pricing option information as referenced in the initial Request for Proposals (RFP) and a failure to request and review detailed pricing information prior to recommending bidders to the utility companies. In addition, certain pricing requirements were modified after the deadline for submission of proposals.

More specifically, the RFP clearly required that contract pricing for successful bidders must not exceed the statutory price cap of the comparable wholesale market price for generation plus five and one-half cents per kilowatt hour at the time of approval by the DPUC. However, the two proposals recommended to the utilities by the CCBE and currently being considered by the DPUC are not compliant with this mandatory cap. This raises a concern that other potential bidders who would have applied but for the price cap requirement were, in effect, precluded from participating. Put more simply, there may be other applicants who would have applied had they known that the price cap would not be applied to certain proposals. This creates a fundamental question as to the openness and fairness of the process.

Based on these findings, OPM is recommending that any proposals approved for Project 100 contracts must be made to comply with the price cap requirements as spelled out in the RFP. This will potentially allow the current projects to move forward for further review by the utilities and the DPUC without significant delay while ensuring that the initial RFP criteria are applied uniformly and fairly to all proposals.

At the Governor's request, OPM is continuing to review the practices, procedures and structure of CCEF's operations with a view toward potential recommendations for changes in the next legislative session.