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Also admitted in District of  
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*Via Electronic Mail and Hand Delivery*

March 12, 2008

S. Derek Phelps  
Executive Director  
Connecticut Siting Council  
Ten Franklin Square  
New Britain, CT 06051

Re: **Petition No. 831 - Petition of Waterbury Generation LLC for a  
Declaratory Ruling for the Construction of an Electric Generating  
Facility and Associated Transmission Line Tap in Waterbury,  
Connecticut**

Dear Mr. Phelps:

Enclosed are an original and twenty (20) copies of Waterbury Generation LLC's ("WatGen") Objection to The Connecticut Light and Power Company's March 11, 2008 letter responding to arguments raised in WatGen's brief in the above-referenced proceeding.

Please feel free to contact me if you have any questions or require additional information. Thank you.

Sincerely,



Joey Lee Miranda

Enclosures

Copy to: Parties and Intervenors of Record



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**STATE OF CONNECTICUT  
CONNECTICUT SITING COUNCIL**

IN RE: :  
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 :  
 PETITION OF WATERBURY GENERATION : PETITION NO. 831  
 LLC FOR A DECLARATORY RULING FOR :  
 THE CONSTRUCTION OF AN ELECTRIC :  
 GENERATING FACILITY AND ASSOCIATED :  
 TRANSMISSION LINE TAP IN WATERBURY :  
 CONNECTICUT : MARCH 12, 2008

**PETITIONER'S OBJECTION TO CL&P RESPONSE LETTER**

Waterbury Generation LLC ("WatGen") hereby objects to the March 11, 2008 letter filed by The Connecticut Light and Power Company ("CL&P") replying to an argument raised by WatGen in its brief ("Response Letter"). As discussed more fully below, CL&P's Response Letter constitutes a reply brief, which is not permitted without the permission of the Connecticut Siting Council ("Council"). More importantly, CL&P's arguments lack merit. Accordingly, CL&P's Response Letter should be disregarded.

**I. BACKGROUND**

On October 5, 2007, WatGen filed a Petition for Declaratory Ruling ("Petition") with the Council for the construction of an electric generating facility and associated transmission line tap in Waterbury, Connecticut ("Project"). On February 1, 2008, the Council closed the hearing on the Petition and offered the parties and intervenors the opportunity to submit briefs and proposed findings of fact. On March 3, 2008, WatGen, CL&P and The Brooklyn Neighborhood Association, The Town Plot Neighborhood Association, Mohawk Park Civic Club, The Hopeville Neighborhood Association, the Gilmartin Community Club and The Waterbury Neighborhood Council (collectively, the "Neighborhood Groups") filed briefs and proposed

findings of fact. On March 11, 2008, CL&P submitted its Response Letter. For the reasons set forth below, CL&P's Response Letter should be disregarded.

**II. ARGUMENT**

**A. CL&P'S RESPONSE LETTER WAS IMPROPERLY FILED**

In its letter, CL&P specifically states that it "is submitting this letter *to respond to an argument* made by the Petitioner, Waterbury Generation LLC ("WatGen") in its Brief . . . ." Response Letter at 1 (emphasis added). Thus, CL&P's Response Letter is in reality a reply brief. However, as CL&P is aware, reply briefs are not permitted without the permission of the Council, which CL&P did not seek or obtain.

At the close of the hearing, the Council Chairman specifically advised parties that "no reply briefs *without our permission* will be considered by the Council." February 1, 2008 Transcript ("Tr.") at 150 (emphasis added). WatGen did not receive copies of any communications from CL&P seeking permission to file a reply brief nor did CL&P request permission in the Response Letter itself to file a reply brief. Since CL&P failed to seek or obtain the Council's permission to file a reply brief, its Response Letter was improperly filed and should be disregarded.

**B. CL&P'S ARGUMENTS LACK MERIT**

Even if the Council were to determine that CL&P's Response Letter was properly before it (which WatGen disputes), CL&P's arguments lack merit. In its Response Letter, CL&P attempts to refute the arguments raised by WatGen regarding the propriety of CL&P's requested condition in connection with the transmission line tap easement. In particular, CL&P asserts that its requested condition is within the Council's jurisdiction because it is the "only way to ensure the environment will be protected . . ." and because the Council imposed a similar condition in another proceeding. Response Letter at 1-2. Upon closer scrutiny, both of these arguments fail.

Despite CL&P's assertions to the contrary, the requested condition is not the "*only* way to ensure the environment will be protected . . . ." Response Letter at 1 (emphasis added). Indeed, it is not necessary, *in any way*, to ensure the environment is protected. As discussed more fully in WatGen's brief, WatGen has already demonstrated that the Project, which includes the transmission line tap, will not have a substantial adverse environmental effect. Petitioner's Post-Hearing Brief, dated March 3, 2008 ("WatGen Brief"), at 14-32. Thus, CL&P's requested condition is unnecessary.

In addition, WatGen has indicated throughout the course of this proceeding that it understands that the construction and operation of the transmission line tap will be subject to CL&P's review and approval of all license agreements and/or easements and design and construction. WatGen Brief at 12-13. In fact, during the hearing, CL&P's witness admitted that this was the case and that WatGen has assured CL&P that its rights would be protected. *See* January 8, 2008 Evening Tr. at 80-81. Moreover, as CL&P is aware, CL&P and WatGen have already entered into a Design, Engineering, and Permitting Agreement that requires WatGen to comply with CL&P's standards and gives CL&P review and approval rights over the transmission line tap specifications. *See* Federal Energy Regulatory Commission ("FERC"), Docket No. ER-08-\_\_-000, *The Connecticut Light and Power Company – Original Service Agreement No. IA-NU-07 under Section 22 of ISO New England Inc.'s Transmission, Markets and Services Tariff, FERC Electric Tariff No. 3*. In addition, WatGen, CL&P and ISO New England ("ISO-NE") will enter into a Large Generator Interconnection Agreement that will provide CL&P with review and approval rights regarding the transmission line tap specifications. *See* FERC Electric Tariff No. 3, Open Access Transmission Tariff, Schedule 22 - Large Generator Interconnection Procedures, Appendix 6 (Standard Large Generator Interconnection

Agreement). Since the construction and operation of the transmission line tap will already be *subject to CL&P's review and approval*, CL&P's requested condition, which would provide it with unfettered discretion under the impetus of agency authority, is unnecessary and inappropriate.

Moreover, as discussed more fully in WatGen's brief, CL&P's requested condition is outside the scope of the Council's jurisdiction. WatGen Brief at 12-13. In an attempt to bring the requested condition within the Council's jurisdiction, CL&P contends that the proposed condition "ensures the transmission line interconnection will not have a substantial adverse environmental impact." Response Letter at 1. However, what CL&P is attempting to ensure is that the Council has dictated the terms of agreements that should be the subject of negotiations among private parties. Such a request is beyond the scope of the Council's jurisdiction and, as discussed above, is unnecessary as WatGen has already demonstrated that the entire Project, including the transmission line tap, will not have a substantial adverse environmental effect.

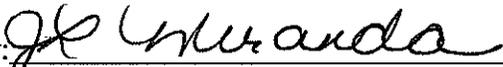
In its Response Letter, CL&P also argues that the Council has jurisdiction to impose the requested condition because it has done so in another proceeding. CL&P Response Letter at 2 (*citing Council Decision & Order, dated June 7, 2007, Petition 784, Plainfield Renewable Energy, LLC Petition for a Declaratory Ruling No Certificate of Environmental Compatibility and Public Need Is Required for the Proposed Construction, Maintenance, and Operation of a 37.5 MW Wood Biomass Generating Project, Plainfield, Connecticut, Condition 7*). However, the inclusion of a similar condition in a prior decision is not itself evidence of jurisdiction. In fact, as CL&P is aware but failed to mention, Plainfield Renewable Energy agreed to the condition that was ultimately imposed in Petition 784. *See* Petition 784, Letter from Robert S. Golden to Chairman Caruso, dated June 7, 2007, attaching Proposed Condition No. 7 ("I have

consulted with Attorney McDermott [Plainfield Renewable Energy's Counsel] and he has indicated that I can represent *his concurrence* with this request.”) (emphasis added). WatGen has not agreed to a similar condition in this proceeding. Moreover, because the requested condition is beyond the Council's jurisdiction, the Council should not impose such a condition.

**III. CONCLUSION**

For all of the foregoing reasons, WatGen respectfully requests that the Council disregard CL&P's Response Letter.

Respectfully submitted,  
WATERBURY GENERATION LLC

By: 

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Its Attorneys

**CERTIFICATE OF SERVICE**

I hereby certify that on this 12th day of March 2008, a copy of the foregoing was mailed,

First Class Mail, to:

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