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Also admitted in District of
Columbia and Massachusetts

Via Electronic Mail and First Class Mail

March 21, 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
Objection to the Neighborhood Groups' Motion to Reopen in connection with 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

Joey Lee Miranda

Enclosures

Copy to: Parties and Intervenors of Record

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**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

IN RE: :
: :
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 21, 2008

PETITIONER’S OBJECTION TO MOTION TO REOPEN

Waterbury Generation LLC (“WatGen”) hereby objects to the Motion to Reopen Hearing to Take Further Evidence and Permit Cross-Examination (“Motion to Reopen”), dated March 14, 2008, filed by 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”). As discussed more fully below, the Motion to Reopen fails to state a valid basis for reopening the proceeding and should be denied.

I. BACKGROUND

On October 5, 2007, WatGen filed a Petition for Declaratory Ruling (“Petition”) with the Connecticut Siting Council (“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, The Connecticut Light and Power Company (“CL&P”) and the Neighborhood Groups filed briefs and proposed findings of fact. On March 11, 2008, CL&P submitted a Reply Brief to which WatGen objected

(“WatGen’s Objection”). On March 14, 2008, the Neighborhood Groups submitted the Motion to Reopen along with a Request to Submit “Reply Brief” and Reply Brief. WatGen hereby submits its objection to the Motion to Reopen.

II. ARGUMENT

The Council has already received extensive evidence to establish that the Project, which includes the transmission line tap, will not have a substantial adverse environmental effect and the Neighborhood Groups had substantial opportunities to cross-examine both WatGen and CL&P regarding CL&P’s proposed conditions. Accordingly, there is no factual basis to warrant reopening the proceeding. Moreover, the scope of the Council’s jurisdiction presents a legal issue that is most appropriately addressed through briefs, not evidence, and is an issue the Neighborhood Groups failed to brief despite having the opportunity to and filing both a brief and reply brief. Hence, the Motion to Reopen does not state a valid basis for reopening the proceeding and should be denied.

A. THE COUNCIL’S RECORD ALREADY CONTAINS EXTENSIVE EVIDENCE REGARDING THE POTENTIAL ENVIRONMENTAL EFFECTS OF THE TRANSMISSION LINE TAP

The primary basis for the Neighborhood Groups’ Motion to Reopen is to have the Council take further evidence and permit the Neighborhood Groups the opportunity to cross-examine WatGen and/or CL&P “regarding the disputed issues of [f]act raised by their REPLY BRIEFS . . .” Motion to Reopen at 1. In particular, the Neighborhood Groups wish to have the Council consider further evidence regarding CL&P’s assertions that the Council cannot be assured that the proposed electric transmission line tap will have a substantial adverse environmental effect without imposing certain conditions related to agreements between WatGen and the Connecticut

Department of Transportation and Metro-North Railroad. Motion to Reopen at 2. However, this issue has already been fully addressed.

The Council has already received substantial evidence to establish that the Project, including the transmission line tap, will not have a substantial adverse environmental effect. *See* Petitioner's Post-Hearing Brief, dated March 3, 2008 ("WatGen Brief"), at 14-32. More particularly, the Council was presented with evidence that establishes that the transmission line tap will be constructed in accordance with the Council's Best Management Practices and CL&P and Metro-North's standards. *See, e.g.*, WatGen Exhibit ("Exh.") 1 at 3, 10, 13; WatGen Exh. , Response ("Resp.") 24; 01/08/08 Evening Transcript ("Tr.") at 80-81. Since the issue of fact that the Neighborhood Groups wish to have the Council consider was already discussed extensively throughout the course of this proceeding, the Council should deny the Motion to Reopen.

B. THE NEIGHBORHOOD GROUPS HAD AMPLE OPPORTUNITY TO ENGAGE IN CROSS-EXAMINATION OF WATGEN AND CL&P

The Neighborhood Groups assert that they need the opportunity to cross-examine WatGen and/or CL&P because "[t]his dispute *has only now arisen* through the vehicle of [the] Reply Briefs" *See* Neighborhood Groups' Reply Brief at 2 (emphasis added). This is simply incorrect.

Throughout the course of the hearing, the Neighborhood Groups had ample opportunity to cross-examine WatGen and/or CL&P regarding the issues raised in CL&P's Reply Brief and WatGen's Objection. On December 19, 2007, nearly three weeks before the start of the hearing in this matter, CL&P submitted the prefiled testimony of Dorian Hill. In that prefiled testimony, Mr. Hill requested that the Council impose the exact conditions that CL&P requested in its Brief and Reply Brief. *See* Prefiled Testimony of Dorian Hill on behalf of The Connecticut Light and

Power Company at 5-6. During the first hearing day, Mr. Hill testified before the Council and was asked a series of questions about his prefiled testimony. 01/08/08 Evening Tr. at 74-90. At that time, the Neighborhood Groups were presented with the opportunity to cross-examine Mr. Hill and declined to do so. 01/08/08 Evening Tr. at 77. Moreover, the Neighborhood Groups engaged in extensive cross-examination of WatGen's witnesses and did not ask any questions regarding the issues raised in CL&P's prefiled testimony. 01/08/08 Afternoon Tr. at 33-87; 02/01/08 Tr. at 44-97. Since the Neighborhood Groups have already had ample opportunity during the two days of hearings to cross-examine both CL&P and WatGen regarding the issues raised in CL&P's Reply Brief, they should not now be given a second bite at the apple. Accordingly, the Council should deny the Motion to Reopen.

C. THE SCOPE OF THE COUNCIL'S JURISDICTION PRESENTS A LEGAL, NOT FACTUAL, ISSUE

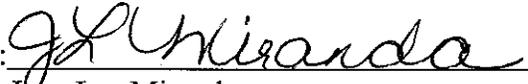
The Neighborhood Groups also assert that a compelling reason exists to reopen the proceeding because CL&P and WatGen are disputing the scope of the Council's jurisdiction. Motion to Reopen at 2. The scope of an agency's jurisdiction presents a question of law; not a question of fact. *Department of Pub. Safety v. Freedom of Info. Comm'n*, 103 Conn. App. 571, 576, *appeal denied*, 284 Conn. 930 (2007). Accordingly, there is no need to reopen the record to present further factual information on this issue. Moreover, the Neighborhood Groups were given the opportunity to submit a reply brief to the Council on the particular issues raised in CL&P's Reply Brief and WatGen's Objection, including the scope of the Council's jurisdiction. *See* Neighborhood Groups' Request to Submit "Reply Brief" at 4. Despite this opportunity, the Neighborhood Groups did not address this issue in their Reply Brief. This failure, however, does

not warrant reopening the proceeding. Therefore, the Council should deny the Motion to Reopen.

III. CONCLUSION

Since the Neighborhood Groups have failed to provide a valid basis for reopening this proceeding, the Council should deny the Motion to Reopen.

Respectfully submitted,
WATERBURY GENERATION LLC

By: 
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Its Attorneys

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of March 2008, a copy of the foregoing was mailed,

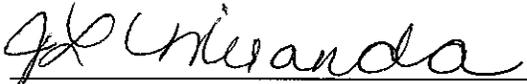
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Joey Lee Miranda