

**STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL**

PETITION OF BRIDGEPORT ENERGY II
LLC FOR A DECLARATORY RULING
TO APPROVE THE INSTALLATION
AND OPERATION OF A 350 MW PEAKING
FACILITY AT THE EXISTING BRIDGEPORT
ENERGY FACILITY IN BRIDGEPORT, CT

Petition No. 841

April 3, 2008

POST-HEARING BRIEF OF 60 MAIN STREET, LLC

Pursuant to § 16-50j-31 *et. seq.* of the Regulations of Connecticut State Agencies ("R.C.S.A."), parties 60 Main Street LLC, 3260 Broadway Service Center, Inc., Hiram Adelman, and Brook Merrow (collectively "60 Main Street et al" or "60 Main Street") submit this post-hearing brief in opposition of the above-captioned petition. This brief is limited to (1) the substantial, adverse environmental effects the proposal will have on the surrounding area, and (2) the additional information that should be required of the Applicant as conditions of approval, if the Council chooses to approve this Petition.

I. BACKGROUND

The petitioner, Bridgeport Energy II, LLC (the "Petitioner") in accordance with provisions of Connecticut General Statutes ("C.G.S.") §§ 16-50g through 16-50aa and §§ 16-50j-1 through 16-50j-41 of the Regulations of Connecticut State Agencies ("R.C.S.A."), submitted a petition to the Connecticut Siting Council ("Council") on December 14, 2007 for a petition for a declaratory ruling pursuant to C.G.S. § 16-50k(a) (the "Petition").

The Petition proposes to construct a 350 MW peaking facility at the existing Bridgeport Energy facility located at 10 Atlantic Street in Bridgeport (the " Proposed Facility"). The existing Bridgeport Energy facility consists of a 520 MW combined cycle facility. The Proposed Facility would consist of a two-unit, gas-fired combustion turbine facility (Application ("App.") at 5), an 800,000 gallon fuel storage tank that is within twenty feet of both Russell Street and Henry Street (App. at Exhibit D) and a 213 foot high smokestack (App. at Exhibit D). The Petition proposes to enclose the Facility with a 10 foot high fence with 2 feet of barbed wire on top of that fence. (3:00 Transcript ("Tr.") at 34). The Petition proposes minimal landscaping surrounding the Facility. (App. at Exhibit D). Significantly, the Petition did not include a traffic study, air quality studies or noise studies as part of the Petition.

II. **THE PROPOSED FACILITY WILL HAVE A SUBSTANTIAL ADVERSE ENVIRONMENTAL EFFECT**

The record in this Petition convincingly demonstrates that the Petition will have a substantial adverse environmental effect on the surrounding areas, particularly on the large-scale development that has been approved for the immediate, surrounding area including the development proposed by 60 Main Street and a project proposed known as the "Magic Johnson" development. (7:00 Tr. at 72). The 60 Main Street development includes construction of a 1200 unit, 38 story residential building and retail space and proposed marina. (7:00 Tr. at 41, 73-74).

1. **Visibility and Aesthetics**

Despite the significant visual impact that the Proposed Facility will have on the surrounding area, the Petition does not propose any visual mitigation or landscaping to reduce the visual impact of the Proposed Facility. Specifically, the 213 foot

smokestack, the 800,000 gallon fuel storage tank situated approximately 20 feet from two roadways and the proposed fencing with barbed wire will have a negative visual impact on the surrounding area, including the 60 Main Street Development.

As testified to, the development proposed by 60 Main Street will include the construction of 5 buildings ranging in height from 18 to 38-stories, including 1,200 residential units, retail space and proposed marina. (Pre-Filed Testimony of Stephen Grathwohl; 7:00 Tr. at 41, 73-74). Russell Street, on which the Proposed Facility will be located, is one of the main roads that will be used to access the 60 Main Street Development. (7:00 Tr. at 57). In addition, as testified to, there are additional developments planned in the area and the University of Bridgeport is in close proximity to the Proposed Facility. As proposed in the Petition, the Proposed Facility will include 10 foot high fencing with barbed wire and minimal landscaping along Russell Street, which the occupants of the 1,200 residential units at 60 Main Street will have to drive past on a daily basis. As described during the hearing, the Proposed Facility is a "1950's power plant." (7:00 Tr. at 57).

2. Traffic Impact

The Petitioner did not conduct a traffic study in connection with the Proposed Facility. The Air Permit that the Petitioners filed with the Department of Environmental Protection would permit the Proposed Facility to operate 2500 hours per year, which would be approximately 28.5 percent of the year. (3:00 Tr. at 90-91). In circumstances where the Proposed Facility is operational and the Proposed Facility is required to use fuel oil, the Petitioner would be required to truck in fuel oil in order to replenish the 800,000 gallon fuel storage tank. (3:00 Tr. at 85). The

800,000 gallon fuel storage tank provides 24 hours of continuous service and, at that point, the fuel storage supply would need to be replenished. (3:00 Tr. at 87). In order to fully replenish the fuel storage tank, it would require as many as two hundred truckloads of fuel oil to the Property. (3:00 Tr. at 87).

Two hundred large fuel oil truck deliveries within a 24 hour period will have a substantial impact on the traffic in the surrounding area, particularly considering the increased traffic that will result from the residential development proposed at 60 Main Street as well as the Magic Johnson development, Conty's development and the existing traffic from the University of Bridgeport. (7:00 Tr. at 57). Despite that, the Petitioner did not conduct or submit a traffic study in connection with this Petition.

3. Noise and Air Quality

The Proposed Facility could be operational for as much as 28.5 percent of the year and, during that time, will be burning either natural gas or fuel oil. (3:00 Tr. at 85). The Petition states that the turbines will be housed in an acoustically treated building to minimize the noise impact from the Project (App. at 15) and the Petitioner has indicated that it has conducted noise studies for the Proposed Facility. (3:00 Tr. at 98). Despite having conducted noise studies, the Petitioner did not submit those studies to the Council and the parties to this proceeding for review and consideration. Therefore, the Petitioner cannot establish that the Proposed Facility will not have a negative impact on the surrounding area as a result of noise generation.

In addition, the Petitioners testified that that they conducted air quality tests and atmospheric modeling, neither of which have been submitted to the Council for its review. (7:00 Tr. at 39). Therefore, the Petitioner cannot establish that the

Proposed Facility will not have a negative impact on air quality in the surrounding area.

As the foregoing demonstrates, the Proposed Facility will have a substantial, negative environmental impact on the area.

III. **IF THE COUNCIL APPROVES THIS PETITION, IT SHOULD IMPOSE CERTAIN CONDITIONS OF APPROVAL**

As discussed *infra*, the Petitioner has failed to provide information on traffic impacts, air quality impacts and noise impacts related to the Proposed Facility. In addition, the Proposed Facility incorporates little, if any, visual mitigation for the surrounding area. Therefore, if the Council chooses to approve the Proposed Facility, it should attach several conditions of approval in order to address the substantial environmental impacts that will result.

1. Visual Mitigation

As a condition of approval, the Petitioner should be required to incorporate visual mitigation into the Proposed Facility. That mitigation could include an architectural wall, particularly along Russell Street and surrounding the fuel oil tank, which the Petitioner testified would be feasible from an engineering standpoint. (3:00 Tr. at 95). In addition, the Petitioner should be required to explore a landscaping easement on the PS&G property and construction of berming to further mitigate the negative visual impact of the Proposed Facility. (3:00 Tr. at 79; 7:00 Tr. at 15). Finally, rather than employing chain-link fencing with barbed wire, the Petitioner should be required to utilize a stone or wood fence.

2. Traffic

As a condition of approval, and prior to beginning any substantive aspect of the project, the Petitioner should be required to conduct and submit a traffic study of the Proposed Facility, taking into account the anticipated traffic from the numerous developments proposed in the surrounding area, including the 60 Main Street development. Given the significant size of this project, the Council should implement a D&M phase to this petition and the results of the traffic study should be reviewed and approved prior to receiving approval to proceed with the rest of the project. The traffic study should include an analysis of whether the trucks required to re-fuel the Proposed Facility will be operating during peak traffic hours. In addition, the traffic study should review and confirm that emergency vehicles will be able to access the Proposed Facility, in the event of an emergency.

3. Noise and Air Quality

As a condition of approval, the Petitioner should be required to submit both noise and air quality studies. In addition, if the anticipated noise levels are above the 51 decibels anticipated, the Petitioner should be required to employ noise mitigation techniques and design in order to maintain a noise level at 51 decibels or less, as represented in its application materials. The Council should retain jurisdiction over this and all aspects of the Facility operation so that compliance can be ensured.

3. Hours of Operation

The Council should impose reasonable, not-to-exceed yearly hours of operation as a condition of approval. The Petitioner has stated that its DEP air permit application would not permit it to operate for more than 2500 hours per year. Any approval of the Petition should impose this same limitation.

IV. CONCLUSION

60 Main Street respectfully concludes that the Proposed Facility will result in a substantial environmental impact to the surrounding area. In particular, the Proposed Facility will have a negative visual impact, will negatively affect the traffic in the surrounding area and will result in increased noise and air pollution in an area where approximately 1200 new residential units will soon be constructed, along with the residences that already exist in the area. Therefore, 60 Main Street respectfully requests that the Council deny this Petition or, if approved, the Council should attach the conditions approval discussed herein.

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Certification

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

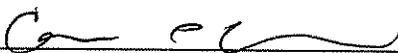
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